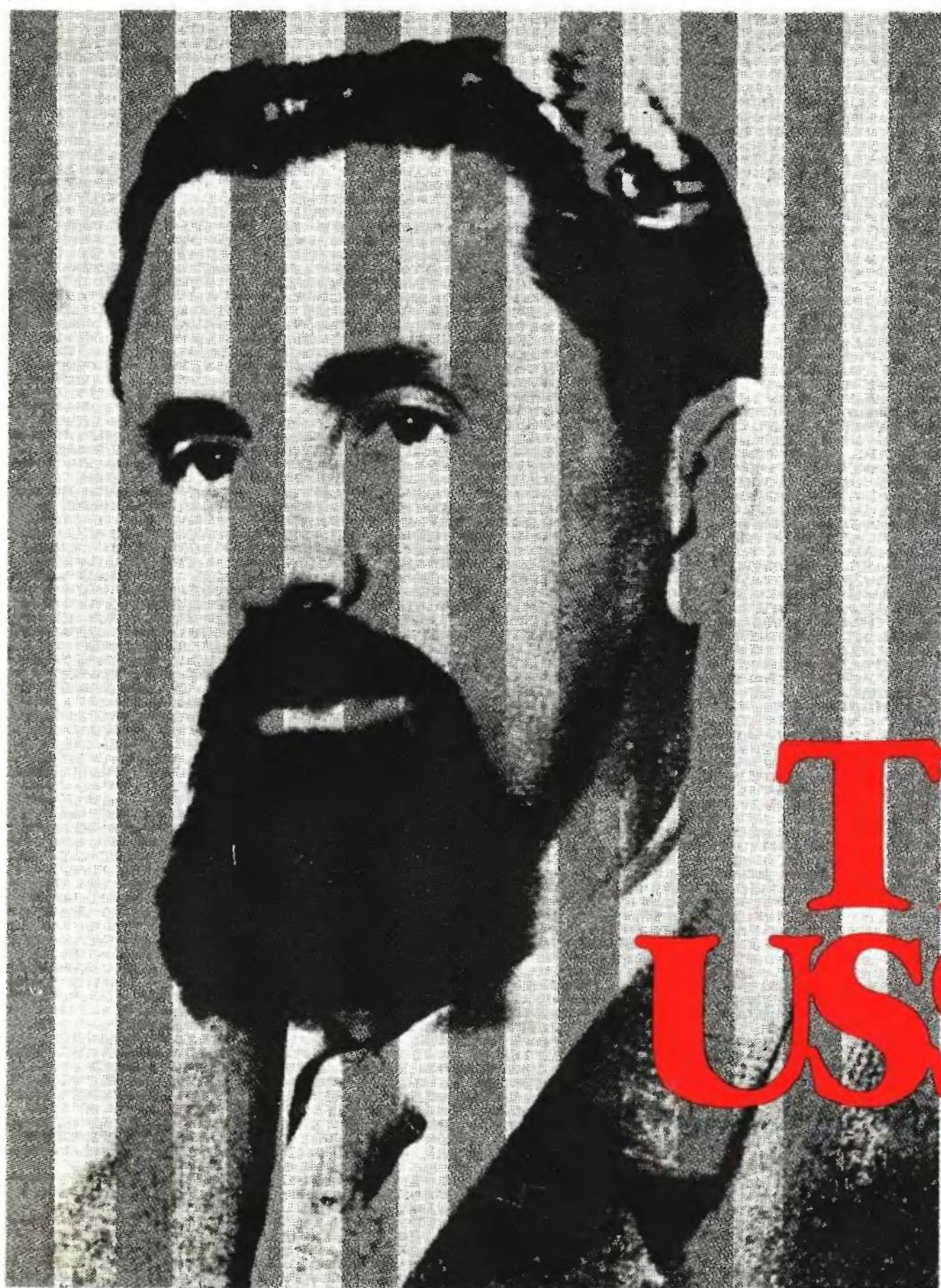

Soviet “Justice” vs. Human Rights

The only tape recording of a trial
smuggled out of the Soviet Union



**The
USSR**

vs.

**Dr. Mikhail
Stern**

\$9.95

The USSR vs. Dr. Mikhail Stern

Edited by August Stern

Introduction by

Professor Leon Lipson

Translated by Marco Carynnyk

This transcript is the first tape recording of a Soviet trial ever to be smuggled out of Russia. It is one of the great documents of man's struggle against the violation of human rights.

The fierce courtroom drama unfolds the story of a great Jewish doctor's implacable refusal to submit to the immense forces that the Soviet State marshalled against him. The contrast of personalities and interests, the basic decency of the judge who nevertheless has to submit to the government, the growing personal bravery of Dr. Stern in his heroic accusation of the very men accusing him, the brilliance of the defense, the villainy of the prosecution, the stubbornness of the peasants: all this is recreated in a book whose message is now being heard throughout the world.

Fifty Nobel laureates signed a petition to free Stern. Sakharov called it one of the most important dissident cases in the USSR. *But it was the publication of the book itself that made the Soviets release Stern.*

In April 1974, Dr. Stern, a noted endocrinologist in the Ukrainian town of Vinnytsia, was arrested because he would not forbid his adult sons to emigrate to Israel.

Almost immediately after his son August received legal permission to leave the USSR, "as if at the wave of a magic wand," multiple complaints about the "crimes" the father had allegedly committed in more than thirty

The USSR vs. Dr. Mikhail Stern

The Only Tape Recording
of a Trial
Smuggled Out of the
Soviet Union

Edited by August Stern

Translated from the Russian
by
Marco Carynnyk

Urizen Books New York

This translation has been prepared from the Russian transcript of the Stern trial as recorded in the courtroom by August and Victor Stern and subsequently edited by August Stern.

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Preface

BETTER TO DIE ON ONE'S FEET THAN TO LIVE ON ONE'S KNEES

Even today nightmares keep me from sleeping. Even today I cannot believe that I am breathing the pure air of freedom, surrounded by my family, together with my remarkable sons, among good friends and kind people. I awoke this morning with the terrible roar of sirens in my ears. This roar was neither a hallucination nor reality. It was *memory*. For over two years the fifteen hundred prisoners at concentration camp ITK-12 in Kharkov would begin each day with the sound of those sirens. At exactly 6:00 A.M. electronic sirens mounted in each of the six barracks would raise an incredible din, reminding us of our terrible reality and making us jump down from the multi-tiered bunks.

“No one has ever left my sanatorium before his term was up,” Major Proshchin, the camp commandant, would frequently mock me. “You’ll spend all your eight years here, from first bell to last, if you don’t admit your guilt.”

ADMIT YOUR GUILT!

ADMIT YOUR GUILT!

ADMIT YOUR GUILT!

This second siren, psychological and not physical, began to roar for me long before I was unjustly convicted, while I was still in prison, where I had been thrown after I refused to collaborate with the KGB and to forbid my sons to emigrate from the Soviet Union. I knew that my refusal would not be overlooked. I knew in advance that I would be arrested. I knew that I would be convicted on a trumped-up charge. I knew that I would never admit guilt. I made this choice. For the sake of my children’s freedom I was ready to give up my own freedom.

To what depths can man fall! In the course of my trial, Judge Orlovsky walked up to the iron cage in which I was placed during

recesses like a murderer or a felon who had committed a great crime against the State and without blinking an eye he said, “Doctor Stern, you are not guilty, but I am forced to convict you. I have a family and children. *I want to live too.*”

Not all the people of my generation, which has seen all the upheavals of the Soviet period, the idealistic delusions and myths of communism, the concentration camps of Gulag, the war with Nazism and the temporary thaw after Stalin’s death, have lost their human dignity and their ability to think and to love. Family and children! I shall remember Judge Orlovsky’s cynical words for the rest of my life. Perhaps this sounds old-fashioned and classical for the technocratic Western world. But if you think about it, you see that this is the only moral value which has not been completely destroyed by the regime, the only shelter from the falsehood that has permeated every crack and crevice in Soviet society.

Mine was not a typical Soviet family. Fortunately, I was able to protect my children—and not at the price of betrayal and conformism—against the ubiquitous moral decay. I was able, within this hellish Soviet machine, this terrible perpetual motion machine which draws energy from the basest human passions and motives, to bring up my sons as real people—honest, good and fearless. If I can stroll along the green streets of Paris today and be awakened not by the hellish siren at concentration camp ITK-12, but by my wife’s kiss and the spring sunshine pouring through the open windows, it is only because from 29 May 1974, when the KGB arrested me, until 14 March 1977, when I was released, my children led a ceaseless assault for their father’s freedom.

My splendid sons alerted the entire free world. Starving, supported only by their friends, they visited almost twenty countries. They did not let the world forget even for a minute that a human life—their father’s life—was being destroyed in the cold and distant Soviet Union. And so the impenetrable walls of obtusity and violence began to crumble; the hellish perpetual motion machine began to stall; Major Proshchin’s frightened little eyes began to dart about, and in Moscow, behind the bloody stars of the Kremlin and the iron bars of Lubyanka Prison, secret conferences were summoned.

You can learn from the official Soviet press that on 10 and 11 March 1977, several days before I was freed, executives of the

Central Committee of the Communist Party attended a conference at the Kremlin. The participants exchanged notes on their experience in party work and, of course, examined measures for improving it in light of the tasks set forth in Secretary General Brezhnev's speech. But you will not learn from the Soviet press that on 14 March 1977 the authorities were forced to give in to the pressure of public opinion around the world and to release me ahead of time from imprisonment. The Soviet press has never mentioned the appeal on my behalf by fifty Nobel laureates, the letter from Amy Carter, the daughter of the President of the United States, or the International Stern Tribunal, which was preparing a public examination of my case in Amsterdam on 24-25 March 1977.

Putting a brave face on a sorry business, TASS, the Soviet news agency, informed the West—and only the West—that, guided by the principles of socialist humaneness, the Supreme Court of the Ukrainian Republic had ruled to release me before the end of my sentence. On 14 March 1977, I was summoned to the office of Major Proshchin, where I had the opportunity to witness a monstrous metamorphosis. This cruel and merciless man, who was capable of beating prisoners with his own hands, suddenly changed before my eyes into a pitiful lackey. He shouted at his subordinates, bowed low, brushed my coat, packed my belongings and seated me in his own car. With a hangdog look on his face, he drove me to the station and dragged my prison-camp bags onto the train. When we parted, I felt—O God!—the saliva of his kiss on my cheek, the kiss of a Judas. “Don't take vengeance on me, doctor!” were his last words to me.

The book that is in your hands, reader, is no ordinary book. Despite frequent arrests, surveillance, and threats from the KGB, my sons managed to smuggle portable tape recorders into the courtroom and to record my shameful trial, which was a mockery of justice and common sense. Frequent searches and confiscations of their recordings could not prevent them from assembling and passing on to the West full documentation about my trial. Arriving in the West after I had been convicted, they began the long process of compiling all the tape recordings, documents and notes.

Unfortunately, I cannot thank all the people, on both sides of the Iron Curtain, who supported them in this undertaking. I can only say that, having been begun in Moscow, this book continued to be written

in Rome, London, Paris, New York, Stockholm and other cities of the free world.

Thanks to Solzhenitsyn, the world has learned a great deal about the Gulag system. If this book is valuable, it is so because it demonstrates with unadorned facts—for the first time, so far as I know—how a person is sent to the Gulag camps. For me this is not a book. I hear voices when I read it. I see the prosecutor's face distorted with rage. I see the defense counsel's impenetrable face and the "witnesses' " frightened eyes. I sense the guard standing beside me, and I even hear the streetcars rumbling past the courthouse. Now the comrade judges stride like robots into the courtroom, which is packed with KGB collaborators, the main "public" at my trial. Are they judges? *No, they are convicts.*

Frank Kafka and Georges Courteline wrote their books using the resources of their imaginations. This book is not a product of fantasy. It is the ordinary but terrible reality of our times. It is an ordinary horror which really occurred in the small provincial town of Vinnytsia. The resources of this book are not imagination but human pain, suffering and hope. A hope that the day will come when all of us can finally live as human beings.

Paris
29 May 1977

Mikhail Stern, M.D.

Introduction

In December 1974, Mikhail Stern, M.D., was convicted by a Soviet criminal court and was sentenced to eight years imprisonment in a Soviet prison camp. Early in January 1977, Victor and August Stern came to the Documentation Office for East European Law in Leiden, Holland, seeking legal advice and assistance on their father's case and on the International Stern Tribunal which they were then organizing. Their hope for their father's eventual release from Corrective Labor Camp No. 12 in the city of Kharkov, the Ukraine, their belief that his release could be achieved through activity in the West, and their fierce determination to see this belief through to its realization greatly impressed me and made it easy for me to agree to help them in any way that I could. Thus began my involvement as Dr. Stern's lawyer in the West.

However, August and Victor's efforts on their father's behalf had not just begun on that rainy January day when they visited our offices on the banks of the Rapenburg canal in Leiden. While still in the USSR, they had managed to collect numerous documents and hard-to-get material concerning their father's case, and to tape record and compile an entire verbatim transcript of the trial, smuggling it out through the Iron Curtain to the West. The most important of these documents and the greater part of the transcript now fill the pages of this book and provide the reader with a tragic picture of many aspects of contemporary Soviet society. And when Victor and August emigrated from the USSR in 1975, they sought to enlist others in the West in the campaign to have their father released from confinement. More than fifty Nobel Prize winners signed petitions calling on the Soviet authorities to overturn the conviction and to release Dr. Stern from prison. These Nobel laureates also joined the Paris-based *Comité pour la Liberation du Docteur Stern*. Many other people within the USSR and in the West—people too numerous to mention or for whom mention is too dangerous—also lent their moral and material support.

Just as no two people are the same, so the story of any and every person who runs afoul of "the system," wherever it may be, is a special and individual and very often heartrending story. But above and beyond this, I believe the Stern affair—from the marshaling of worldwide public opinion in 1975 to the release of Dr. Stern from camp in March 1977—is a remarkable story in the history of Russian society and law.

That is not to say that Stern's is the only unique case in recent Soviet history. The trial of Siniavsky and Daniel, Solzhenitsyn's exile to the West, the exchange of the Chilean communist leader Luis Corvalán for Vladimir Bukovsky, and Sakharov's struggle for human rights in the USSR have all made history. But Mikhail Stern was not a dissident writer or a prophet; he was not a world-famous scientist nor was he a dissident who took part in publishing clandestine journals. In fact, Stern spent the greater part of his fifty-eight years in the Soviet Union living and working in the mainstream of Soviet society.

It was only in the 1960s that Dr. Stern felt no longer able to disregard what he believed was wrong and unjust in Soviet society; he had reached a turning point in his life where he felt compelled to heed the voice of his conscience. When medical commissions were established to "uncover" unqualified Jewish physicians, Dr. Stern stood up at a local Communist Party meeting and denounced these commissions as nothing more than anti-Semitic frauds. Perhaps after this it was only inevitable that, if he did not recognize the "error" of his statement and publicly "confess," Dr. Stern would eventually end up as a prisoner of his conscience.

Dr. Stern's trial and the events which followed in the West are without doubt important from a legal point of view. The trial in the provincial Ukrainian town of Vinnytsia illustrates how well law can be manipulated to serve political ends. Dr. Stern was ordered by the local Communist Party secretary through the good offices of the KGB—the Soviet secret police—to forbid his sons' emigration to the West; however, he refused to do so. Because he was a well-known figure in the Ukraine, the authorities seemed fearful that others might follow his example if it became known that he had successfully stood his ground against the dictates of the Party and the KGB. Therefore, they apparently decided to make an example of him and to put him on trial—a trial to show all that the Soviet state is stronger and mightier than one single person.

At first, Dr. Stern continued to seek justice and vindication within the Soviet legal system. In the beginning of 1975, his Soviet defense attorney filed an appeal with the Ukrainian Supreme Court against the trial court's distorted and unfounded verdict. After this appeal was turned down, a request to review this decision was lodged with the USSR Supreme Court later that same year. But the USSR Supreme Court ruled that the case was not within their jurisdiction and returned it to the Ukrainian Supreme Court.

When the Soviet legal system was unable to do anything more than go around in circles and could not put a stop to the injustice and the grief that had been brought upon Dr. Stern and his family, his sons—already in the West—turned to western lawyers for help and guidance. In April 1976 a

panel of lawyers, presided over by Sir John Foster, Q.C., and assisted by a noted western expert on Soviet law, met in London to study the legal questions involved in the Stern case. Their report issued after the meeting concluded that “. . . the verdict against Dr. Stern was perverse and could not have been arrived at by any reasonable tribunal.” Later in 1976, Victor and August Stern began organizing the International Stern Tribunal which was to be held in Amsterdam. This Tribunal was intended to serve as a fair and impartial public examination of the entire Stern case, with primary focus on the legal issues involved. An entire battery of western experts in fields such as Soviet law, international human rights law and Anglo-American law had agreed to participate. An invitation was also sent to the Soviet Government to permit the “official” version of the affair to be heard at the same time.

Unexpectedly but most happily, the Tribunal had to be postponed the very week before it was to have been convened in March 1977 because Stern had just then been released from prison—released, as the Soviets said, “on the grounds of Soviet humanitarianism.” I have talked with Dr. Stern since he and his wife Ida arrived in the West, and he firmly believes that both the steadily-mounting pressure of world opinion, brought to bear against the Soviet Union as people became aware of his plight, and the threat posed by the Stern Tribunal, played a major role in his release from prison. The organization of the Stern Tribunal was indeed an unparalleled event—taking the offensive after the Soviet legal system had failed to correct the abuses of law committed by a small-town prosecutor and a fat-cat Party boss and seeking to illustrate how these officials and representatives of the Soviet state had been able to deprive an ordinary, honest and decent Soviet citizen of those civil and human rights guaranteed him under Soviet law.

As the reader will discover from the pages of this book, however, Dr. Stern’s case is more than just the story of the perversion and abuse of Soviet law to serve political ends in a small Ukrainian town—a town that could just as well have been any other small town anywhere in the Union of Soviet Socialist Republics. The Stern affair is a record of human courage and determination. The Soviet authorities, from Vinnytsia City Hall all the way to the Kremlin, brought incredible pressure to bear against Dr. Stern and his family in this struggle between the state and the individual. Dr. Stern and his family resisted this pressure and refused to surrender. The Soviets tried every way possible to break his resolve—to humiliate him and to crush his resolve to continue his oftentimes lonely and seemingly impossible struggle. But even though the commander of Corrective Labor Camp No. 12 threw Dr. Stern into solitary confinement in a basement dungeon for ten days in the middle of February 1977, he continued to keep his spirit high and followed the voice of his conscience. And when he was released from solitary

confinement and had rejoined the normal camp routine, fellow inmates in Prison No. 12—who had been listening to shortwave broadcasts from the Voice of America and the BBC on some of the underground radio sets in the camp—would come running up to him with the day’s news of the committee of Nobel Prize winners and of the Amsterdam Stern Tribunal. And the camp commander, listening to the same radio transmissions and learning that Stern’s wife had begun a hunger strike in the spring of this year to help her husband regain his freedom, called Stern into his office and told him “to stop this terror campaign.” In the end, Mikhail Stern’s bravery and determination, the courage and fortitude of his family and their mutual love and trust for one another, prevailed. The individual following his conscience was victorious in his struggle against the state.

William B. Simons, J.D.

Member, The State Bar of Wisconsin

Documentation Office for East European Law

Leiden, Netherlands

The Legal Background

The Trial of Mikhail Stern in Vinnytsia

If you are unfamiliar with Soviet criminal procedure, the record that you are about to read may seem opaque. This introduction is intended to explain and reduce that opacity. After identifying the participants in the trial, we will make brief notes on the charges and the procedure, consider the extent to which the trial can be regarded as typical or representative of Soviet criminal trials, and conclude with some comments on the fairness of the trial and its outcome. Two preliminary remarks are in order.

First, we should make quite clear the status of the text. So far as I know, the state did not make a *verbatim* record of the trial. Usually, no such record is made; the law secretary to the court makes a minute (“protocol”) of the salient events of the trial in longhand, partly for her own and partly on dictation from the judge.¹ That minute cannot but be woefully incomplete; often it is inaccurate. The record published here is quite different: it is much fuller, and it is unofficial. According to Dr. Stern, it was transcribed from tapes taken on concealed recorders brought to the courtroom by his sons Victor and August,² and compared with shorthand notes made by others in the audience.

Second, we will proceed in this introduction by taking Soviet law at face value in parts I, II and III, postponing till parts IV and V some observations on the context in which the operation of the law needs to be understood.

I

Dr. Stern was tried in Vinnytsia, a city in the Ukrainian Soviet Socialist Republic, thus under the Criminal Code and Code of Criminal Procedure of the Ukrainian SSR. (In most respects that are relevant to this case, the Ukrainian codes closely resemble the codes of the other Soviet republics, including particularly the Russian.) The trial took place in the lowest regular court of general jurisdiction, a “people’s court.” The bench of a people’s court comprises three members: the judge, who is a professional (elected) civil servant, and two people’s assessors, who are laymen elected to serve for short terms on panels from which they are picked for case-duty. The lay assessors may, like the judge, put questions to defendants, witnesses and

counsel, though they do not often do so. In the deliberations on a verdict, they have formally equal power with the judge and together may outvote him, though this happens very seldom.³

The prosecution was conducted by a procurator, an official appointed by the state not only for the purpose of prosecuting alleged offenses but also for supervision of the legality of official action. The procuracy is a powerful, centrally hierarchic institution, adapted from Tsarist precedents. As we shall see, the procurator/prosecutor has a crucially important position in the establishment of the scenario of the Soviet criminal trial because he controls the File on its way from investigator to court.

Defense counsel may be retained or assigned; in this case, Mr. Axelbant apparently was retained by Dr. Stern. To a reader who is familiar with counsel's role in Anglo-American trial, his intervention may seem technical and limited. He had an exceptionally vigorous and articulate client; as in virtually all Soviet trials of adult defendants, he had had scant opportunity to acquaint himself with the details of the case, or even consult his client, until after the completion of the preliminary investigation; and in Soviet courts, the dominant role in moving the business is played usually not by counsel but by the judge.

Frequent mention is made of the investigators, though they did not testify and perhaps were not all even present, at the trial. The investigators are functionally subordinate, not to the police and not to the court, but to the procuracy. It is the investigators who conduct the preliminary investigation and thus compose the File, which is used by the procurator as the basis for the conclusion to indict (or the charge sheet) and also by the judge as the basis for the trial itself.⁴

II

The charges against Dr. Stern were based on Articles 168 and 143 of the Criminal Code of the Ukrainian SSR, as Boris Antonov noted correctly (see p. 31; for the text of the articles, see note 8, pp. 263-4).

Under Article 168 (bribe-taking), the offense is not made out unless the bribe-taker is an official and takes a bribe in return for an action that the official has a duty to perform or can perform by the use of his official position. Much of the dispute over the import of testimony on this group of charges at the Stern trial has to do with whether three elements of the offense are sufficiently established. The first question is whether, in the various situations described, Dr. Stern was indeed an official, in the statutory sense of the term. The second is whether, if Dr. Stern did take money (or money's worth), he took it in return for some official action (as distinct, say, from a

gift in token of gratitude for successful medical treatment, see section V below). The third is whether certain actions (obtaining a bed in a hospital for a patient, arranging an exemption from military service, etc.) were actions that one in Dr. Stern's position had the power, let alone the duty to perform. Under Article 143 (swindling), the main issues of fact were whether, if Dr. Stern did take money or money's worth in the various episodes, he got it by false representations of the cost, scarcity or foreign origin of certain medicines. Some other charges figured in the conclusion to indict but found little or no confirmation in the reported testimony and were apparently dropped by the prosecution (certain techniques for extorting fees, posing as a sorcerer-physician, etc.).

The significant evidence is summarized, and arguments on behalf of Dr. Stern made, in the appeal filed by his attorney and reproduced here (pp. 228 *et seq.*). We might only note that Soviet law, though it does not contain a presumption of innocence in so many words, does state that the burden of proof is and remains on the prosecution,⁵ and that conviction requires that the court establish the truth of the accusation.

III

Dr. Stern was arrested on 29 May 1974 and kept in custody continuously through the period of investigation and trial. This is not uncommon, though Soviet law has no support for Mr. Antonov's statement (p. 31) that a person accused of such offenses "must be kept in custody prior to the trial. . . ."⁶ Detention of the accused is often practiced in cases of what we should call alleged political offenses (sedition, anti-Soviet agitation) and in alleged crimes of violence, but there is some question whether it is customary in alleged "money" crimes. His incarceration obviously affected his ability to prepare the factual aspects of his defense in the six-and-a-half months from arrest to trial.

The record of the preliminary investigation thus contains almost exclusively what the procuratorial investigators put into it on the basis of their research, which of course included interrogation of Stern himself. This record is of great importance in Soviet procedure, not only because it serves as the foundation for the conclusion to indict but also because it serves as the basic script for the trial. As in many countries outside the Anglo-American common law, the triers of fact (here, the three members of the People's Court) do not, and are not supposed to, come to the trial ignorant of the (alleged) facts of the case. They have before them, in advance, the (prosecutors') investigator's record of the preliminary investigation. Soviet legal literature shows clearly the prevailing official opinion that a trial is

supposed to establish all the facts necessary to conviction, from the ground up, using the record of the preliminary investigation only to clear up inadequacy or inconsistency developed at trial. Soviet practice shows with equal clarity that instead the court in the great majority of cases uses the trial proceedings as a selective check on the preliminary investigation, which thus is projected through the conclusion to indict, through the trial and its "protocol," to the verdict and judgment.

As for the dialogue in the trial, a few special features of the law should be noted. (i) Defendant has the right to put questions to witnesses directly.⁷ Dr. Stern exercised this right with unusual skill. (ii) Witnesses are supposed not to be present in the courtroom before they give their own testimony; this explains defense counsel's point in argument about the selection of expert witnesses, pp. 40-41.⁸ (iii) It is standard form, as the judge observes to the defendant (p. 51), to address a witness as "Witness"; Dr. Stern, addressing the witness by the polite form of first-name-and-patronymic, was bringing out his own lay status, his courtesy toward patients and their relatives, and the peremptory tone of the official legal language.^{8a} (iv) The order of testimony is within the power of the trial court to determine. In soliciting the opinions of the parties (pp. 45-46) the trial judge acted formally in accordance with the law.^{8b} (v) Dr. Stern's request for confrontation (pp. 40-41) might well have been granted by a less unsympathetic court, or by a court that was interested in using more of the methods readily available to ascertain the truth. Confrontations to resolve contradictions are frequently practiced during preliminary interrogation, but there is a provision also for confrontation at trial.^{8c} A few of the questions put by the court at subsequent points in the proceedings could, indeed, be viewed as a (rather artless and incomplete) resort to confrontation.

IV

How unusual is the Stern case? Should we regard it as a "sport", or is it reasonably typical of Soviet justice?

We cannot give a confident answer to such a question. For one thing, Soviet trials are seldom reported in detail by reporters unconnected with the government, records are seldom available, and even official reports are seldom published. For another, Soviet court statistics, especially in the area of criminal law, are essentially closed to outsiders. Some impressionistic comments, however, can be ventured.

(i) The very existence of a transcript is unusual. Accounts of political cases do exist in *samizdat*; these are based sometimes on tape recordings,

sometimes on notes written surreptitiously, sometimes on recollections set down just after the trial session by sympathetic members of the courtroom audience and collated, sometimes by two or more of these methods in combination.

(ii) The length of the trial is unusual. Soviet criminal prosecutions do not recognize the plea bargain in its American form, but there is a functional equivalent: a great many cases are whisked through the people's courts with high perfunctory speed toward pre-determined convictions. Even contested trials are dispatched.

(iii) The vigor of the defense is quite unusual, though not unique. This applies both to counsel and to defendant. Counsel's position may have been strengthened by his "playing straight" to the ostensibly non-political character of the prosecution. Dr. Stern of course treated the accusations as politically motivated (chiefly by anti-Semitism, see section V below) and took—or created—many opportunities to broaden the ground on which he took his stand. Perhaps his eloquence strikes us as rather highly colored; his literary allusions have an old-fashioned air about them, and he confuses Machiavelli with Loyola; he makes legal points with less than professional precision; he appears over-ready to call attention to the shortcomings of professional colleagues or prosecutors or jailers. Yet we ought to recall that after all he has been confined, chiefly incommunicado, for over six months; that he is being tried, and is sure to be convicted, on a charge that will ruin his professional career in the Soviet Union, or rather that to him the trial shows that the authorities have determined to ruin his professional career if they can; that he knows he faces a long term of imprisonment; that he does not know whether his two sons will succeed in emigrating; that he is outraged by the indignity to which so many of his patients and their families have been subjected by the investigation and in the trial; and that as a physician he observes the deterioration of his own health. And when we do recall these circumstances, we wonder not at his irritation and strong language, but rather at his composure and presence of mind.

(iv) The judge takes a very active part in the questioning of witnesses; he often leads them or rebukes them or corrects them. That seems quite common in Soviet courts, where, it must be remembered, the judge has the record of the preliminary investigation before him.

What cannot be said with certainty is whether Judge Orlovsky's tilt towards the prosecution is unusual. Take, for example, the testimony of Bezkursky (pp. 73-74). Bezkursky (in fairness be it acknowledged) is not the most coherent of witnesses, says he put some money somewhere in Stern's office but never says that it was Stern who took it. There seems to have been some confusion in the office at the time, and a boy running

by. . . . The judge improves Bezkursky's testimony three separate times by putting into his mouth (more to the point, probably, by dictating for the "protocol") that "you gave this money to Stern;" "Stern took the 25 rubles"; "[t]hen how much money did the doctor take from you?"

Again, consider the judge's rebuke to Josefa Baida, mother of a patient whom Stern had treated successfully. She bursts into tears while testifying; the judge asks why, and is told "We're grateful to the doctor"; then the judge admonishes her (p. 155). "That's what doctors are for, to cure people. In our country they're given a free education for that purpose." It is not unusual for a Soviet judge to lecture parties, witnesses and counsel on official morality and ideology; Judge Orlovsky's lectures, however, seem consistently biased against pro-defense statements.

V

The words of the trial transcript, dramatic and confusing, have to be read against the background of Soviet life.

(i) *Fees to professionals*. Soviet physicians work basically as salaried employees in institutions (clinics, hospitals, etc.) maintained by the state. The fees for their services are set by regulation and are paid to the institution. (Private practice at home, in the physician's free time, is another story.) The main equipment and laboratories and working hours are all public, and though the physician treats the patient, the patient does not retain or pay the physician. So says the law.

Life says otherwise. Extra transfers, whether gifts or fees, are an ever-present fact of Soviet medicine, as they are also of Soviet legal practice. Not only do rural patients, there as elsewhere,⁹ make gifts of produce; Soviet patients (like Soviet clients) know the unreality of the official schedule of compensation. The question whether Dr. Stern accepted such gifts might have presented some interest to the fiscal authorities; but, to a court trying him on charges of bribery and swindling, the transfers should have been immaterial unless it could be shown either that they were effected in return for improper use of official authority (bribery) or that they were extorted by false representations (swindling).

(ii) *Anti-Semitism*. The transcript shows no obvious anti-Semitic statements in court. It is always Dr. Stern who stresses the alleged anti-Semitic factor in the prosecution; the judge frequently rules these references out of order. Is Dr. Stern's insistence gratuitous? Reading between the lines, we must bear in mind, first, the coincidence in date between official action on the sons' application to emigrate to Israel and the official initiation of a most extensive search for witnesses in a possible prosecution of the father;

second, the currently growing volume of attacks on "Zionism" in the Soviet press; and, third, the long local history of popular anti-Semitism, often fostered by official connivance or worse.

(iii) *Ukrainian regionalism*. Among the provocative sub-themes in the Stern trial is the linguistic-cultural theme. It was held against him that he got on the right side of his rural patients by his fluency in the local dialect. As he notes, this must mean that he spoke Ukrainian with them; and his scorn of the Russian chauvinism implicit in the prosecution's statement should be coupled with his quoting Ukrainian poetry in his own final statement. Yet the trial was conducted in Russian; and we do not know whether it was prudence that dissuaded Dr. Stern, who of course knows Russian well, from demanding that he be supplied with an interpreter between Russian and Ukrainian (to say nothing of Yiddish or of Hebrew).

These Russian-speaking officials are, at times, aware of their provinciality. For the latter two-thirds of the trial proceedings, the judge seems hardly capable of letting twenty minutes go by without nervous comments on the interest shown by foreign radio. When he cuts into Stern's historical and literary allusions, his ruling on their supposed irrelevance is less vehement than his protests that they are already familiar to the court. The procurator and the medical experts, as well as the judge, show a certain ingenuousness that their counterparts in Moscow or Leningrad have usually schooled themselves to repress.

Perhaps we can spare a sympathetic thought for their situation: The task assigned to them turns out to be fraught with unpleasantness and difficulty. The defendant refuses to capitulate and instead conducts himself with dignified eloquence, intelligently attacking or explaining the hostile testimony. One witness after another resists the stereotyped condemnation called for by the official programme, repudiates or vitiates the statements reported in the preliminary interrogation, and publicly dares to express satisfaction and gratitude. The foreign radio is, indeed, keenly interested in what has been going on in the trial of an endocrinologist in a remote Ukrainian town. That telephone ringing in the judge's chambers¹⁰ is surely not the vehicle of praise from Kiev or Moscow. They will not soon forget, nor will they take any pride in remembering, the trial of Mikhail Stern in Vinnytsia.

Leon Lipson
Professor of Law
Yale Law School

BY WAY OF A PROLOGUE

TRIAL TRANSCRIPTS SEIZED

Moscow, January 2, 1975 (UPI)

The son of Mikhail Stern, a Soviet doctor who was condemned two days ago in Vinnytsia, was taken off a Moscow-bound train.

Victor Stern told Western journalists that a local militiaman informed him that he was being detained on the order of the KGB.

He was detained for seven hours. His briefcase, which contained tapes and documents pertaining to his father's trial, was confiscated.

Victor Stern said the confiscated materials were not the only existing copies of the transcripts.

Prosecutor's Office of the USSR
Prosecutor of the Vinnytsia Province
June 16, 1975
No. 4/2133-74

Citizen Victor Stern:

I must inform you that your request to return the tape recordings of the trial of M. Stern, who was tried under Article 168, Paragraph 2, and Article 143, Paragraph 2, of the Criminal Code of the Ukrainian SSR,

cannot be granted because you recorded the court proceedings without the permission of the court and the recordings are proof of your illegal activity.

A. Riznyk
Counselor of Justice,
Chief of the Investigation Department,
Vinnytsia Province Prosecutor's Office

BEFORE THE TRIAL

NOVEMBER 6, 1973

204 Days Before the Arrest

400 Days Before the Trial

*Comrade Yefremov,
Department of Visa Applications*

November 6, 1973

Please consider the enclosed documents which pertain to my wish to emigrate from the Soviet Union.

August Stern

APRIL 25, 1974

34 Days Before the Arrest

230 Days Before the Trial

*Administration of Internal Affairs of the Vinnytsia KGB Headquarters.
Office of the Director of the Passport Department.*

DIRECTOR: Have you guessed why you've been summoned?

DR. MIKHAIL STERN: No, I haven't.

DIRECTOR: We have been informed that your son has applied for a visa to leave the country. Doesn't it seem to you that this fact discredits the Soviet government?

STERN: I don't think that changing one's country of residence discredits the government in any way.

DIRECTOR: How long have you been a member of the Party?

STERN: Thirty-one years.

DIRECTOR: How can you, a Communist of such long standing, permit your son to leave for the capitalist world?

STERN: You can be a Communist there, too.

DIRECTOR: But what if you have to go to war against the Soviet Union?

STERN: Who could be planning to attack the Soviet Union?

DIRECTOR: It is your obligation and duty to forbid your son to leave.

STERN: My obligation is to obey the law, my duty is to be honest.

DIRECTOR: Your son is a scientist? [*long silence*]

STERN: Yes.

DIRECTOR: I'm also planning to write a dissertation . . . about why people want to leave the USSR. I called you in here for the purpose of collecting scientific data.

STERN: My son August's method of collecting data was different . . .

DIRECTOR: I'm a sociologist.

STERN: He couldn't subpoena his material.

DIRECTOR: Yes, apparently you're not afraid of society's wrath if you are letting your son leave.

STERN: My son is an adult. I categorically refuse to go against his will and to impose any decisions on him.

MAY 13, 1974

16 Days Before the Arrest

212 Days Before the Trial

Comrade Yuri Andropov
Chairman of the KGB

May 13, 1974

A STATEMENT

Upon returning from an endocrinological congress in Kharkiv today, I was informed by the members of my family that on May 12, 1974, they were all

summoned at the same time to various departments of the Administration of Internal Affairs, where they were detained for four hours on various pretexts.

During that period, “unknown” persons broke into my apartment for “unknown” reasons by smashing the front door.

I believe that this is a scandalous violation of the inviolability of the home.

I request that my family be protected against similar gangsterish attacks. I request that you undertake an investigation of the illegal actions by staff officers of the Vinnytsia KGB, because I am afraid that this is a planned action intended to compromise me.

Dr. Mikhail Stern

MAY 29, 1974

The Day of the Arrest

194 Days Before the Trial

THE ARREST

From Mikhail Stern's testimony in court:

“At dawn a crowd of militiamen and plainclothes agents broke into the apartment, heaped threats and insults on me, and began an illegal search. I was arrested and thrown into prison. . . .”

AUGUST 23, 1974

110 Days Before the Trial

The Prosecutor's Office of the Ukrainian SSR in Kiev

The following complaint was submitted by Victor Stern on August 23, 1974 to V. Pozniak, Chief of the Investigation Department of the Prosecutor's Office of the Ukrainian SSR.

*Comrade F. K. Hlukh,
Prosecutor of the Ukrainian SSR*

August 23, 1974

A COMPLAINT

On May 29, 1974 our father, Mikhail Stern, was arrested with the approval of the Prosecutor of the Vinnytsia Province. The arrest was preceded by a number of violations of the law and arbitrary actions by the local authorities.

As he was being arrested, M. Stern was handed a copy of a statement to Comrade Andropov, Chairman of the KGB, dated May 13, 1974, which was included in the official record and which consisted of a request to investigate the breaking and entering of our apartment by "unknown" members of the KGB for the purpose of carrying out an illegal search.

On May 29, 1974 August Stern was summoned to the Visa Department to receive an exit visa from the USSR. That same day, our father was arrested and searches were conducted in our apartments. The search lasted three days under the supervision of Investigator V. Kravchenko of the Vinnytsia Provincial Prosecutor's Office and was accompanied by many flagrant violations of socialist legality. No criminal actions were uncovered—and could not have been uncovered—during the searches. But on orders from Investigator Kravchenko our purely personal papers were confiscated: the manuscript of an unpublished monograph, author's copies of scientific articles, lists of published works, and personal archives. During the search personal belongings of Victor Stern were also confiscated: a hunting rifle and a car. Staff workers of the Prosecutor's Office drove the car away without drawing up documents confirming its confiscation.

We believe that the confiscation of our purely personal papers and belongings, the ownership of which is recorded, is a gross violation of our constitutional rights. On the basis of all the above we earnestly request you, Comrade Prosecutor of the Republic, to issue orders for the immediate return of the illegally confiscated documents and belongings.

The manner of the arrest and search and the illegal confiscation of the documents and belongings lead us to believe that a man is being persecuted on local initiative with the aim of blackening his good name. The reason for this persecution was clearly expressed during the search on May 29, 1974 by V. Kravchenko, Investigator of the Vinnytsia Provincial Prosecutor's Office, who stated that proceedings had been instituted because of our desire to leave the country. This statement is confirmed by the fact that August Stern's exit visa was held up at the request of the Vinnytsia Provincial Prosecutor's Office.

All our complaints about the improper handling of the investigation and

our demands that the violations be corrected were sent to the Vinnytsia Provincial Prosecutor's Office. Furthermore, in violation of the law, we received on June 28, 1974 a reply to our complaints signed by Investigator Kravchenko, that is, the person whose illegal actions we had complained about. Kravchenko informed us in a mockingly ingenuous fashion that there were no violations of the law in his actions.

The monstrous accusations against our father, a physician with more than thirty years' experience, are absolutely groundless. The Prosecutor's Office of the Vinnytsia Province nevertheless chose to take him into custody. The most absurd medieval reasons for the arrest are being spread in Vinnytsia. The unsubstantiated charge is being surrounded by the poisonous atmosphere of a "physician-murderer in a white coat." Firmly convinced that our father, Mikhail Stern, is innocent and taking into account his advanced age and the serious state of his health, we request you to review the decision about placing him under custody from humane considerations and with the aim of establishing a normal atmosphere of legality.

Our mother is being subjected to a senseless and inhuman campaign of terror and physical abuse. During the last attack on her apartment all the windows were broken by rocks and she was injured. Anonymous telephone threats come day and night, strangely coinciding with the actions undertaken by the Vinnytsia Provincial Prosecutor's Office.

We have sent to the Vinnytsia Provincial Prosecutor's Office a demand that our attorney from the Moscow City Collegium be allowed to study the case. Our request was rejected in an insulting fashion, and the Prosecutor of the Vinnytsia Province stated that "only an attorney from the Vinnytsia City Collegium will be given access to the case." When our mother inquired what our father is accused of, Investigator Kravchenko stated: "That's none of your business. You'll find out when you need to know."

All the above-mentioned violations of the law, the absurdity and artificiality of the charges against our father, the falsification of witnesses' testimony, and the manipulation of public opinion for a reprisal against a "physician-murderer" quite clearly reveal the true meaning of this persecution, tendentiously directed and encouraged by the Vinnytsia KGB and unprecedented and unthinkable in our time.

On the basis of the constitutional rights guaranteed to all citizens of the USSR, we turn to you with a demand that you immediately and effectively intervene with the aim of stopping immediately the persecution of our father, Mikhail Stern, and identify and punish the officials responsible for the said violations of the law.

As we address you with all this, we remain convinced of the victory of the justice that is the basis of socialist legality.

Victor Stern
August Stern

Upon becoming acquainted with the complaint V. Pozniak told Victor Stern that emigration from the USSR discredits the Soviet government and hinted confidentially that the surest way to stop the case would be to retract the request for an exit visa.

AUGUST 24, 1974

109 Days Before the Trial

Department of Visa Applications

August 24, 1974

A STATEMENT

I request that you issue me the necessary forms to file an application for emigration from the USSR.

Victor Stern

SEPTEMBER 3, 1974

Three Months After the Arrest

Special instructions sent to twenty-five investigators of regional Prosecutor's Offices in the Vinnytsia Province, which contain directives for drawing up an indictment against Dr. Stern, who has been held in total isolation for three months at Prison No. 2 in Vinnytsia.

SPECIAL INSTRUCTIONS

I am conducting an investigation in the case of Mikhail Stern, former Director of the Outpatient Clinic of the Vinnytsia Provincial Endocrinological Health Center, who has been charged with bribe-taking and swindling.

Enclosing a list of patients to whom Stern gave medical treatment, I request that you interrogate them and ascertain the following:

1. When and by whom referred for treatment?
2. In what manner did Stern demand money (conversations, actions, etc.)?
3. What drugs did they receive at pharmacies and what drugs from Stern?
4. How much money did Stern obtain?
5. Were produce and other material goods given to him?

PLEASE PAY ATTENTION TO THE PSYCHOLOGICAL ASPECTS OF THE INTERROGATIONS AND EXPLAIN TO THOSE INTERROGATED THE POSSIBILITY OF EXONERATING THEM FROM RESPONSIBILITY FOR OFFERING BRIBES, ETC.

Vitaliy Kravchenko
Prosecutor of the Investigation
Department
Vinnytsia Provincial Prosecutor's Office

SEPTEMBER 9, 1974

93 Days Before the Trial

113 Days Before the Verdict

TELEGRAM

MOSCOW PROSECUTOR GENERAL USSR RUDENKO STOP
CRITICAL CONDITION FORCES US TO TURN TO YOU STOP
SINCE MAY 29 THIS YEAR VINNYTSIA PROVINCE
PROSECUTORS OFFICE CONDUCTING INVESTIGATION CASE
OF HUSBAND MIKHAIL STERN STOP VIOLATING ALL NORMS OF
SOCIALIST LEGALITY STAFF OF INVESTIGATING ORGANS
EXERT IMPERMISSIBLE PRESSURE PROVOKE WITNESSES
FORCE THEM TO GIVE FALSE TESTIMONY STOP DEPUTY
PROSECUTOR ILLINTSI REGION VINNYTSIA PROVINCE
DEMANDED THAT MARIA SOLOVIYCHUK AND OLENA
TYMOSHENKO RESIDENTS OF VILLAGE KYTAI HOROD

CONFIRM INVESTIGATORS VERSION OF MY HUSBANDS GUILT
EXPLAINING THIS BY NECESSITY TO SAVE LIVES OF CHILDREN
ALLEGEDLY DELIBERATELY POISONED BY DR STERN STOP
REQUEST IMMEDIATE INTERVENTION STOP

IDA STERN

OCTOBER 7, 1974

65 Days Before the Trial

Prosecutor's Office of the USSR
Prosecutor of the Vinnytsia Province
Investigation Department
No. 3/2133-74
October 7, 1974

Citizen Ida Stern:

Your telegram to USSR Prosecutor General Rudenko was sent to the Provincial Prosecutor's Office for verification.

The facts presented in the telegram have not been confirmed by investigation. It has been established that no violations of the law occurred while your husband's case was being investigated.

Ivan Temchenko
Senior Counselor of Justice
First Deputy Prosecutor
of the Vinnytsia Province

NOVEMBER 14, 1974

27 Days Before the Trial

111 Days Before the Confirmation of the Verdict

SPECIAL CONTROL

*Ministry of Health
Ukrainian SSR*

*November 14, 1974
For Internal Use Only: Memo No. 000360*

To heads of main departments and departments of the Ministry of Health, Ukrainian SSR, directors of provincial and municipal health departments, deans of medical schools, directors of scientific-research institutes, and directors of provincial, municipal and regional hospitals and dispensaries.

M. Stern, the former Director of the Outpatient Clinic of the Provincial Endocrinological Health Center in Vinnytsia, engaged in extortion and demanded bribes from patients for receiving them at the Clinic without referral from regional hospitals. He obtained over a thousand rubles* from fifteen patients. Furthermore, this money-grubber sold drugs at inflated prices.

The Vinnytsia Provincial Health Department failed to display sufficient adherence to principles in evaluating this incident and did not make it the subject of wide-scale deliberation by the medical community.

The Ministry of Health of the Ukrainian SSR has thus established that many directors of institutions of health care have still not taken decisive measures to improve ideological education.

I order all directors of Provincial Health Departments to conduct in November and December of this year an inspection of the plan of action to reinforce supervision of activities in medical institutions in accordance with Ministry of Health of the Ukrainian SSR letters No. 115/221, dated July 1, 1974, and No. 139/221, dated October 6, 1974.

The results of the inspection are to be discussed at expanded meetings of the Medical Councils of the Provincial Health Departments with the partici-

*1977 equivalent of 1.75 ruble = \$1.00.

pation of directors of medical institutions and staff members of the Prosecutor's Office.

Minutes of the meetings of the Medical Councils and orders issued on the basis of these minutes are to be submitted to the Ministry no later than January 15, 1975.

Minister of Health
Bratus

NOVEMBER 28, 1974

13 Days Before the Trial

The Times (London)
Thursday, November 28, 1974

Is the 'blood trial' coming back into use as an instrument of Soviet persecution?

by Bernard Levin

On Monday next, in the little Ukrainian town of Vinnitsa, there begins a criminal trial the like of which has not been seen in the civilized world for some five or six centuries. Indeed, the matter is so horrible and the manner so fantastic that even I, whose regard for the Soviet political and judicial system is not at all high, would have found it difficult to credit had the details not come to me from sources of unquestionable authority, backed with a massive array of references.

The prisoner is a Jewish doctor, Mikhail Stern, and some idea of the standards of Soviet justice may be gained at the outset from the fact that although he was arrested six months ago and has been held incommunicado ever since (for three months in an underground cell), and that the trial, as I say, is due to begin on Monday, the charges he will face have not yet been revealed. Unless the Soviet authorities lose their nerve at the last minute, however, and invent stories of espionage or financial speculation, it is likely that he will be charged with the murder by poisoning of Soviet children, of which he has already been accused in print. . . .

From some time in 1963, until his arrest in May of this year, Dr.

Stern worked as a consultant at the Vinnitsa Endocrinological Centre; he was clearly loved and trusted by his patients, who came from far away as well as from the town itself.

In November last year Dr. Stern's younger son, a psychologist, applied for permission to emigrate; Dr. Stern was pressed by the authorities to dissuade his son from this intention, and refused. From then on he and all his family underwent a series of interrogations. On May 29 this year he was arrested; his apartment, and those of his two sons and of the sister-in-law of one of them, were ransacked by the KGB, who committed numerous violations of Soviet law. Among the property of the family that was taken was 1500 roubles of Mrs. Stern's savings, the car of one of their sons, and various scientific papers. Dr. Stern was held under close arrest, his family being refused all access to him, as indeed they have been to this day; he is a very sick man, suffering from, among other things, tuberculosis, ulcers and stenocardia. During the three months in which Dr. Stern was kept in the underground cell of the Vinnitsa prison, the authorities sought, but failed to find, evidence of any kind of wrong-doing by him. They therefore set about fabricating and suborning the appropriate witnesses.

All the patients who had consulted Dr. Stern during the past 10 years (some thousands) were questioned by a special group of 25 interrogators. The interrogators demanded that they testify to Dr. Stern's guilt as a child murderer; complaints made by his family against the nature of these proceedings were rejected, and in addition, in violation even of Soviet law, the rejection came from the very person named in the complaints who was the man in charge of the interrogations, Procurator Kravchenko. When the family applied for a Moscow lawyer chosen by them to be told the nature of the case, this was refused, the excuse being that Dr. Stern had said he wanted only a Vinnitsa lawyer; it is impossible for the family to check this as they have all been refused permission to see him, his sons being told that they may not do so *until sentence is passed*.

Many of Dr. Stern's patients, displaying high courage, have been writing testimonials on his behalf; it is clear that he is widely loved. Some of them have demanded that their testimonials should be admitted in evidence at his trial. Meanwhile, August Stern and his wife, who had been given permission to emigrate, have had it withdrawn, and Dr. Stern's other son, Victor, a distinguished physicist, has been dismissed from his job and allowed to work only as a telegraph-boy, his wife (a qualified chemist) being unable to get work of any kind at all.

On the day of Dr. Stern's arrest, and during the search of the family's

homes, Procurator Kravchenko said in the presence of witnesses that the preparation of charges against Dr. Stern was connected with the expressed wish of members of his family to emigrate. The same admission was made by another official, Procurator Poznyck, to Victor Stern in August.

On October 21, the family filed a series of requests and complaints concerning the treatment of Dr. Stern and the violations of Soviet law that have occurred in the preparation of the case against him. The family have asked for a lawyer chosen by the family to take part in the case, for permission for them to visit Dr. Stern in prison, for an inquiry into the basis of the case and for the investigation into the breaches of the law committed by investigating and other officials. Procurator Alexandrov rejected all the family's requests out of hand and without giving any reason.

Those in charge of the fabrication of the case against Dr. Stern have ignored the favourable testimony of thousands of his patients; they have so far persuaded some 40 people to give evidence against him. At present, the identity of only one of these is known: she is a woman named Overchuk, who is apparently prepared to testify that he has deliberately poisoned children and spied for Israel.

It should be added that Mrs. Stern has been subjected to a continuous campaign of vilification and persecution, including threatening telephone calls by night and day. On the 6th of this month, she requested the Soviet Procurator-General Rudenko to put an end to the persecution of her husband and their family; in reply it was made clear that he fully supported the actions taken by the local authorities. . . .

Trial was brought forward.

Now, the Soviet authorities have gone one farther, and appear to be about to return to the even earlier practice of the "blood trial," in which Jews were accused of ritual murder of Christians, together with such activities as the poisoning of wells. . . . We know the name of the President of the Court, which is Savchenko, and of the Judge, Orlovsky; we know nothing else, except that only immediate international publicity and protest can save Dr. Stern.

NOVEMBER 29, 1974

12 Days Before the Trial

**PRESS RELEASE BY THE SOVIET EMBASSY
IN THE HAGUE, HOLLAND, NOVEMBER 29, 1974, No. 222**

By Boris Antonov

The investigation of Dr. Stern's case has been completed and forwarded to court. Dr. Stern, an imposing and effusive man with a black bushy beard, informed the Procurator that he wanted to have two defense counsels.

"Have you any complaints? Are you in good health?" inquired the Procurator. "No complaints," replied Stern.

Mikhail Stern is charged according to Articles 168 and 143 of the Penal Code of the Ukraine SSR. A person accused of such offenses must be kept in custody prior to the trial and is allowed no meetings with relatives or acquaintances. All this is done in conformity with criminal procedural legislation to establish the crime in full. Thus, procedurally, Stern's case does not contradict the law.

DECEMBER 3, 1974

8 Days Before the Trial

AN APPEAL BY ANDREI SAKHAROV

I view the charges against Dr. Stern as a provocation by the authorities intended to intimidate those who wish to leave the country. Stern was arrested after his son submitted an application for an exit visa with his father's official permission. The authorities demanded that Stern forbid his son to leave, threatening him with serious consequences. Stern refused.

Certain aspects of the case arouse deep anxiety. More than two thousand

people were interrogated and strong pressure was brought to bear on them. An attempt is being made to present Dr. Stern as a spy and poisoner of Soviet children who took bribes and practiced swindling. Witnesses were told that they would not be punished for bribery, which is a violation of the law, if they testified that they had given Stern bribes. The majority of the many people interrogated nevertheless refused to give false testimony against their doctor.

I am asking Soviet and foreign doctors to study the accusations against their colleague, which in my opinion are not substantiated from a medical, moral or legal point of view [. . . .]

The Dreyfus Case in France and the Beilis Case in Russia roused thousands of people against prejudice and the crimes of government arbitrariness.¹ By coming out with this appeal today I hope that all honest people in the world will do everything possible to defend Dr. Stern.

Andrei Sakharov

THE TRIAL

WEDNESDAY, DECEMBER 11, 1974

Day One of the Trial

Dr. Mikhail Stern's trial opens at the Vinnytsia Provincial Court at ten o'clock. Originally scheduled for December 10, the trial has been postponed one day so that the opening will not coincide with International Human Rights Day.

The courthouse and the surrounding streets have been cordoned off by the police. Even Dr. Stern's wife Ida and his sons Victor and August are not allowed to enter the building.

Dr. Stern is brought in from jail by a reinforced guard detail which drives the prison van right up to the door. Victor, the older son, manages to call out to his father that the family is not being allowed inside. Dr. Stern then declares that he will refuse to participate in the trial in these circumstances. Only then is his family permitted to enter the court.

COMPOSITION OF THE COURT

PRESIDING JUDGE:	V. Orlovsky
PEOPLE'S ASSESSORS:	A. Lakhtionov
	V. Podonenko
	H. Shrepylo (alternate)
CLERK OF THE COURT:	V. Puchkova
COUNSEL FOR THE PROSECUTION:	H. Kryvoruchko
COUNSEL FOR THE DEFENSE:	D. Axelbant

JUDGE: The accused will rise. Your full name?

STERN: Mikhail Stern.

JUDGE: Year of birth?

STERN: September 21, 1918.

JUDGE: Nationality?²

STERN: As long as there is one anti-Semite left in this world . . .

JUDGE: Stop, Stern, stop!

STERN: . . . I will reply loudly: I am a Jew!

JUDGE: Can't you reply simply?

STERN: I'm doing what I can. I didn't say anything out of the ordinary.

JUDGE: It is in your interest to speak briefly. Your education?

STERN: Higher.

JUDGE: Profession?

STERN: Physician-endocrinologist.

JUDGE: Family status

STERN: Married.

JUDGE: Composition of family?

STERN: My wife,—the most beautiful woman in the world—two sons, adults, two daughters-in-law, a grandson . . .

JUDGE: No children under age?

STERN: No. And my mother, who's eighty-seven.

JUDGE: She is in your family, being supported by you?

STERN: I think that she is supported primarily by me because I am the one who renders her the most material assistance.

JUDGE: Party membership?

STERN: Member of the Communist Party of the Soviet Union from 1944 to 1974.

JUDGE: Expelled from the Party in connection with the present case?

STERN: I was not informed of that.

JUDGE: Not informed, but you do know that you were expelled from the Party. Military service?

STERN: Officer in the reserves, captain in the medical service.

JUDGE: Any awards or decorations?

STERN: No.

JUDGE: Have you been given the indictment?

STERN: I have.

JUDGE: Do you challenge the composition of the court?

STERN: I do not, but I do want to express my doubt about the possibility of an objective examination of my case in Vinnytsia.

JUDGE: In that case, how do you reply to the court?

STERN: No objections.

JUDGE: Sit down. I announce the composition of the medicolegal commission: Olnev, Candidate of Medical Sciences, Director of the Vinnytsia Provincial Bureau of Forensic Medicine: chairman; Professor Kuchuk, Doctor of Medical Sciences, Chairman of the Department of Hospital

Therapy* at the Vinnytsia Medical Institute: member of the commission. Does the prosecutor have any questions or challenges?

PROSECUTOR: No.

JUDGE: Does counsel for the defense have any questions?

DEFENSE COUNSEL: Yes, I have several questions. Tell me, Comrade Olnev, you are the Director of the Bureau of Forensic Medicine?

OLNEV: Yes.

DEFENSE COUNSEL: Are you a specialist in the field of endocrinology?

OLNEV: I am acquainted with every branch of medicine.

DEFENSE COUNSEL: The same questions to Professor Kuchuk.

KUCHUK: I am the Chairman of the Department of Hospital Therapy, which includes a course in endocrinology for students at the Vinnytsia Medical Institute. Hence I believe that as a professor in this department I have some competence in endocrinology.

STERN: Does the Department of Hospital Therapy include a chair in endocrinology, and who occupies it?

KUCHUK: The chair in endocrinology has been occupied since 1968 by my former senior lecturer, now Professor Zelinsky.

STERN: What are the professional relations between Professors Kuchuk and Zelinsky, formerly members of the same department? As we know, Professor Zelinsky is now the immediate supervisor of Professor Kuchuk as pro-rector of the Vinnytsia Medical Institute.

JUDGE: Comrade prosecutor, what is your opinion, should Professor Kuchuk answer this question?

PROSECUTOR: Challenges require other reasons. Perhaps of a family nature, but not professional relations. The question posed by the accused concerns professional relations. Hence I believe it should not be answered.

JUDGE: The court allows Professor Kuchuk not to answer the question. Are there further questions?

STERN: I have a challenge.

JUDGE: Just a minute, there's an order here, a strict order. Victims,* have

*The word *therapist* in modern English is used mainly in its secondary sense, but the primary meaning of the word refers to a medical doctor concerned with disease as such. [Editor's note]

*This word *victim* is very difficult to translate. The Russian word is *poterpevshii*, literally, "one who has suffered." It is translated in the Oxford Russian-English Dictionary as "victim" or "survivor." In the French translation, this word has been translated as *plaignant/plaignante*. We would translate this as "plaintiff." The Soviet legal system recognizes plaintiffs and has a different term: *isttsy*. We could justify the term *victim* in that it refers to a specific feature of the Soviet legal system with no exact equivalent in Anglo-American law. The translator would prefer to use *victim*, but the editors have decided to use the less emotionally charged *plaintiff*. [Editor's note]

you heard? You have the right to challenge the composition of both the court and the expert commission. Do the victims have any questions for the experts? No. All right, now you may state your challenge.

STERN: Of course, I'm ignorant in legal matters . . .

JUDGE: No, you shouldn't . . .

STERN: I say that sincerely, without any sarcasm. But I think it is better to be an ignoramus in jurisprudence when that is not your profession than to be an ignoramus in medicine when that is your profession. I categorically object to Professor Kuchuk for the following reasons. First, Professor Kuchuk is not a specialist in endocrinology. An official scientific position is no guarantee of scientific competence. Second, Professor Kuchuk is a personal friend and subordinate of Professor Zelinsky, a militant anti-Semite who inspired the present trial. Hence, I believe . . .

JUDGE: We will interrupt you for statements like that. Specifically, what reasons do you have for challenging Professor Kuchuk?

STERN: I have met Professor Kuchuk, and I declare that he is a confirmed anti-Semite just as Professor Zelinsky is. Therefore I believe that he cannot be an expert in my case.

PROSECUTOR (*hysterically*): Stern's statements about militant anti-Semitism . . . these are attacks of an abusive nature. Hence I request, Comrade Judge, that you caution the accused Stern that if he continues to conduct himself in this manner, I will submit a motion to remove him from the courtroom. Please explain the law on this point to him. As for the petition he has submitted, I see no grounds for deciding the question of challenge because the reasons cited by the accused Stern, as you have seen yourselves, are more of a slanderous nature than motives for challenge, which must be grounded in law. They are not based on the law. Therefore I believe that this petition cannot be granted.

JUDGE: Will counsel for the defense please state his position?

DEFENSE COUNSEL: As far as the submitted petition is concerned, I want to draw the court's attention to what I think is the very irritable way in which our trial has started off, and I want this case to be examined calmly by the court. Therefore I should like you to reprimand not only defending counsel or Stern, but also the comrade prosecutor if he raises questions that do not correspond to the law at the same time as he declares that Stern is insulting him when he calls a specific person an anti-Semite. I think that this cannot be offensive to the prosecutor or to anyone else present in the courtroom because Stern is calling a specific person an anti-Semite and no doubt has reasons for doing so. Hence when he speaks about Professor Zelinsky, I think that he will explain

what he has in mind. Therefore I believe that it is illegal to make a motion to remove Stern from the courtroom on these grounds or to reprimand him.

Now, as for the challenge. Stern is submitting a petition in which he says that he does not trust Professor Kuchuk, who is a friend and a subordinate, as he affirms, of his personal enemy, Professor Zelinsky. I might add that these grounds are provided for by Article 54 of the Ukrainian Code of Criminal Procedure.³ Therefore, when the comrade prosecutor says that there is no such provision in the law, he is erring in his knowledge of the Code of Criminal Procedure. If we are to speak about the law, then let us strictly adhere to it. The law says quite clearly: if an expert has personal interest or has relatives who have a personal interest, or if other circumstances cast doubt on the expert's objectivity, then the expert can be rejected. That is Stern's point of view. I don't know about Stern's relations with Zelinsky or Kuchuk, but if Stern declares that such relations do exist between them, then I have reason to believe Stern, and on this basis I support him.

But I have other grounds for challenging Professor Kuchuk. I ask you to open volume 2. Case sheet 33 contains Investigator Kravchenko's order to appoint a medicolegal commission for this case. The order says: "On the basis of Articles 75 and 196 of the Code of Criminal Procedure, the investigator decided to appoint a medicolegal commission in this case. The examination is to be conducted by the Vinnytsia Provincial Bureau of Forensic Medicine." Case sheet 35 of the same volume contains the record of the interrogation during which Stern was acquainted with the investigator's order to appoint an expert commission. That is, the investigator carried out the law in acquainting the accused Stern with the order and explained to the accused his right to challenge the experts. Stern did not challenge the experts because he knew that Professor Kuchuk had nothing to do with the Bureau of Forensic Medicine. By the way, if you look at the Criminal Procedure Code, you will find special instructions about the rules for conducting a medicolegal examination. There are also instructions from the Legal Commission of the Council of Ministers of the Ukrainian SSR. The instructions state that if the examination is entrusted not to a person, but to an institution, it must be carried out only by staff members of the given institution. If you examine the material in the present case, you will nowhere find orders from the investigator to entrust Comrade Kuchuk with this examination. Thus, Comrade Kuchuk has not been included in this commission by due process, and I am astonished that, given all these circumstances, he conducted the expert examination.

Who ordered him to join the panel of experts? The case does not contain a document ordering his participation in the commission. I believe that this violation of the law by Investigator Kravchenko, personal relations between Stern and Kuchuk aside, in itself gives us grounds for declaring that Professor Kuchuk is participating illegally in the court proceedings today and that he illegally signed the report of the medicolegal commission. On this basis I believe that Professor Kuchuk cannot participate in the proceedings, and I challenge his participation just as Stern has.

PROSECUTOR: The Bureau of Forensic Medicine has the right to invite any specialist in any field when it needs to decide a question submitted to it. If the Bureau, that is, Comrade Olnev, took this step, then I think that there is no violation of the law here. If you believe that this is a violation of the law, Comrade Defense Counsel, then I think that the court has the right, if you agree that this is really a violation, to decide this question and to assign any representative of any medical institute to carry out this examination during the court proceedings in this case. But because I do not find it necessary to believe that Professor Kuchuk should not take part in deciding this question as an expert in forensic medicine, I believe the court will decide this question in the affirmative, since the court has the right to appoint these experts at a hearing.

JUDGE: In other words, you categorically object to the challenge against Kuchuk.

PROSECUTOR: Yes.

JUDGE: The court retires to chambers.

A long and tedious wait. The sound of a telephone periodically ringing in the judge's chambers can be barely heard in the courtroom.

JUDGE (*after the recess*): The court has ruled to grant the petition to reject Professor Kuchuk as an expert.

Kuchuk tucks his briefcase under his arm with an ironic smile and leaves the courtroom.

STERN: I request that the court proceedings include a completely disinterested person who has nothing to do with the Medical Institute or with Professor Zelinsky, a man who is thoroughly competent in endocrinology and who works for the railroad service system, an endocrinologist who has a candidate's degree in endocrinology, Dr. Kuperman. His participation in the proceedings will be completely sufficient to decide

my case. I request the court to grant the accused his legal right to summon for his defense, to counterbalance the witnesses for the prosecution, witnesses for the defense, who fall into two groups. The first group includes those who were interrogated during the preliminary investigation and who gave the most favorable testimony about Dr. Stern and who were for some reason—deliberately, of course—not subpoenaed by Investigator Kravchenko to participate in the proceedings. The witnesses' names will be presented by my defense counsel. The second group of witnesses consists of people whom I treated in a disinterested way and whom I saved from certain death. I am personally summoning these witnesses to show the court that the Jewish doctor Stern is not a swindler, not a bribe-taker and not a thief, but a qualified doctor who gave disinterested service to people for thirty years.

Third, I have an urgent request to the court. Considering that the medicolegal examination confirmed that at my age of fifty-seven the time spent in prison in the most difficult of conditions has had an effect on my health, I request the court to make an exception, since the burden on me will be tremendous, and permit me to receive, from my relatives during pauses in the court proceedings, the dietetic food my state of health requires.

JUDGE: Is that all?

STERN: No. I have an urgent request to the court to allow me to be in touch with my defense counsel without constant appeals to the chairman of the court, considering the complexity of my defense, since I was held in a strict-regimen cell for six months and not given any opportunity to prepare for the defense. Finally, I request permission to submit a petition. The touchstone of the court's objectivity in its examination of my case will be the granting or the rejection of the following request: confrontations between the accused and witnesses play a decisive role in establishing the truth during the examination of a criminal or civil case. Vitaliy Kravchenko, Investigator of the Vinnytsia Provincial Prosecutor's Office, was given an assignment to make the Jewish doctor Stern into a bribe-taker and swindler by any possible means. He conducted the investigation with monstrous cruelty and lack of objectivity. He deliberately refrained from conducting confrontations with witnesses. I made numerous requests in written form demanding my right of confrontation with all the witnesses. Of ninety-two witnesses I was permitted to confront only five. Hence, I demand . . . I am deeply convinced that every witness for the prosecution was preparing to slander the Jewish doctor Stern following the method of the Doctors' Case in 1952.⁴ Investigator Kravchenko made extensive use of black-

mail and intimidation to get the witnesses to supply the testimony that he needed . . .

JUDGE: You're an educated man. You can speak briefly. Tell us what you want. This isn't a public meeting, this is a court of law. The court has gathered to examine the case objectively.

STERN: I am an educated man, but I think I have the right . . .

JUDGE: Accused Stern, are you addressing yourself to the court or to the public?

STERN: They were told that the Jewish doctor Stern, the one with the beard, had been arrested, he had been paid to treat Soviet people improperly, he . . .

JUDGE (*flustered*): Well, what bearing on the case . . .

STERN: . . . is a spy and wanted to escape to the West. If you confirm that he took money, he will be sent to the Solovetsky Islands.⁵ I am convinced that witnesses were intimidated and blackmailed, and if the court wants to conduct an objective examination of my so-called criminal case, which is an undisguised reprisal for a desire to leave the country, which does not contradict Soviet law and corresponds to the principles and high ideals of the Declaration of Human Rights proclaimed by the UN and signed by the Soviet Union, then the court must allow me to confront all the witnesses in the presence of the prosecutor and defense counsel before the court proceedings begin. If the trial is not intended as an extension of the tragicomic preliminary investigation, then it must grant my request.

JUDGE: Can you say what you want in two words?

STERN: I ask that I be allowed to confront the witnesses for the prosecution before the court proceedings begin or at least to warn each witness that I am not being charged with spying and poisoning and that he has the right to deny in court testimony given during the preliminary investigation.

JUDGE: The court will act in accordance with our law. As for confrontations, there can't be . . . uh . . . uh . . . any confrontations here except with the consent of the person. . . . We'll interrogate them here in the presence of the public. What is the view of the parties?

PROSECUTOR: The fact is that this petition cannot be granted. But an endocrinologist is needed to decide objectively the question posed before the court. But who is to be appointed an expert must be decided, I believe, in consultation with the competent organs* and in this respect I believe

*In the Soviet Union, the word *organs* is used as a synonym for government bodies and particularly for the KGB. The word appears throughout the transcript in this sense.

that the request cannot be granted and the question must be decided in the course of our deliberations. As for additional witnesses, it seems to me that this question must be put aside at this stage and that . . . because in the course of the trial these questions will be decided during the examination of all the witnesses, all the more since some of the witnesses interrogated during the preliminary investigation testified in favor of the accused Stern. If additional witnesses need to be subpoenaed, this question can be decided, I think, during the court proceedings.

DEFENSE COUNSEL: As for the petition concerning the expert examination, I find it very strange that the prosecutor is attempting to straighten out the violations of the law that occurred during the preliminary investigation. It seems to me that the court itself is interested in granting this request. Why? We now have only expert Olnev, who is a forensic doctor and who is acquainted, as he said, "with every branch of medicine." (*Laughter in the courtroom.*) We have to assume that summoning Comrade Kuperman, who works at the railroad hospital and has a higher degree in endocrinology, will help us to examine all the technical questions of endocrinology. Hence I believe that an expert endocrinologist is absolutely essential in these circumstances. Second, as for the witnesses. It seems to me that this question must be decided now. Why? Because some of them may be in the courtroom now or will be in the courtroom if they don't know that they will be witnesses. If this question is settled toward the end of the court proceedings, then I think it will be difficult to guarantee the availability of witnesses by the end of the trial. As for Stern's petition to summon a particular person as an expert, this is not contrary to the law, and it seems to me that the question must be decided not by the "competent organs," but by the court in the course of its proceedings!

The court retires to chambers.

JUDGE (*after the conference*): The Judicial Collegium has studied Stern's petition and ruled to decide the question of experts and additional witnesses in the course of the proceedings. As for dietetic food, let's not enter this into the record. I permit you to receive dietetic food during the recesses.

*The JUDGE reads the indictment:*⁶

ATTESTATION

Preferred by H. Tarnavsky
State Counselor of Justice of the Third Rank
Prosecutor for the Vinnytsia Province

INDICTMENT

in the case of Mikhail Stern, charged under Articles 168, Paragraph 2, and 143, Paragraph 2, of the Criminal Code of the Ukrainian SSR.⁷

The Provincial Prosecutor's Office has received information about swindling, extortion and bribery by M. Stern, the Director of the Outpatient Clinic of the Vinnytsia Provincial Endocrinological Health Center. The present criminal proceedings were instituted on May 27, 1974 on the basis of findings obtained by examination of the said information.

The examination has established that while he was employed as the Director of the Outpatient Clinic of the Vinnytsia Provincial Endocrinological Health Center, M. Stern, who possessed sufficient practical experience and, by virtue of his position, sufficient authority with patients and the opportunity to determine whom he would see and who frequently disseminated his reputation as a sorcerer, with the object of personal gain, abused his official position and deliberately created conditions in which the reception, examination and treatment or hospitalization of patients were impossible without the payment of bribes to him by patients and their relatives.

M. Stern used various means to achieve this purpose. As those interrogated in the case have testified, Stern would refuse to receive patients for days at a time, including those who had traveled from distant parts of the province, unless they gave him money. He would summon patients into his office or send them out again on various pretexts and would select for treatment patients who "thanked" him, left patients alone and naked in the office, and used other means to demonstrate that he had to be given money.

Bribe-taking was frequently accompanied by a direct demand: "I'll cure you if you give me a gift"; "Don't be so stingy if you want to cure your son"; "Fork over"; "You'll have to give a ten-spot"; "You're so stingy," and in a number of cases there was even an insistent demand—"So pay the doctor!"

Extortion and acceptance of bribes from patients and their relatives became so much a part of Stern's practice that he regarded them as normal phenomena, and as witness O. Timofeeva, who was summoned at Stern's request, figuratively put it, "people said that Stern accepted money and was not squeamish about anything."

Furthermore, with the aim of extorting money from citizens, Stern “rendered” assistance in obtaining drugs, abusing the trust patients and relatives had invested in him. As the testimony of witnesses has established, Stern suggested to many patients and their relatives that they acquire scarce “foreign” drugs, “which only he has,” and that they not tell anyone about this.

He apparently acquired some of these “foreign” drugs in pharmacies and then fraudulently passed them on to patients and their relatives as “foreign” drugs—thyroidin, insulin, and other drugs which could be found in ample quantities in local pharmacies.

Stern frequently established for himself the reputation of a “sorcerer-physician” who was close to patients and responded to their needs, used the local dialect in conversations,⁸ aroused the anxiety of parents for their children, and tried to play on these feelings for his personal gain.

It may be perceived from the material in the case that while he was employed as the Director of the Outpatient Clinic, Stern lost the moral cast of mind of a director of an institution and did not balk at any means for the sake of making a profit.

Interrogated about the charges preferred against him, Stern did not admit his guilt and testified that he had neither taken bribes nor practiced swindling. He further testified that hormone preparations were frequently not available in pharmacies and that he would obtain such preparations from patients who no longer needed them and then sell them at their list price because he did not want to put off the treatment of patients according to his methods.

Attempting to shirk responsibility for the crimes he had committed, Stern advanced the theory of a “specially prepared conspiracy” which the prosecution intended to be a reprisal for his family’s intention to emigrate. With this same aim of shirking responsibility Stern slandered the witnesses and victims* in the case in every possible way and advanced the idea that he was a disinterested physician who carried out his duties properly.

The material in the case indicates that Stern sensed the inevitability of punishment for the crimes he had committed, concealed his traces in advance, and made notes as to how he should conduct himself if his criminal activities were investigated, notes which were confiscated during a search of his person on May 29, 1974.

The testimony of the accused does not merit attention and is refuted by the material in the case. M. Stern’s guilt in the charges that have been preferred against him has been fully established. Thus, Mikhail Stern is accused of

*See note on page 35.

systematically abusing his official position as the Director of the Outpatient Clinic of the Vinnytsia Provincial Endocrinological Health Center out of mercenary motives.

With the aim of obtaining money from patients and their relatives Stern created difficulties for patients who wanted to obtain the necessary medical assistance: he would refuse to receive and examine patients for several days and he would refuse to hospitalize patients, that is, he deliberately put patients and their relatives in a situation where they were forced to give bribes. The frequency with which he demanded bribes, the frequent invitations to come into his office and the sending out of patients without an examination, and other actions by Stern created among patients the opinion that it was pointless to go see Stern without money. Making use of this, Stern received money from a number of patients for seeing them without a referral from a regional medical institution. After setting them up for it carefully, he would then demand money from them. He would ask them about their financial situation. He would undress adolescents in their mothers' presence! He would say frequently, "If you don't want your son to be an invalid you'll have to stop being stingy," etc. and then demand money.

By practicing extortion and creating conditions in which patients and their relatives who sought to recover their health or save their lives were forced to pay him bribes, Stern, as the investigation has succeeded in establishing, obtained from twenty-one patients or their relatives two geese, three pails of apples and 775 rubles*, thus committing a crime in contravention of Article 168, Paragraph 2, of the Criminal Code of the Ukrainian SSR.

In addition to the above, with the aim of obtaining money and property from citizens, abusing their confidence, by means of deceit, on the pretext of rendering them assistance in obtaining "scarce foreign" drugs, which would supposedly cure the illness quickly, systematically receiving money from patients and their relatives, in fact issuing patients ordinary drugs which were worth considerably less than the amounts Stern received for them, in the nineteen incidents established by the investigation Stern took possession of a rooster, seventy eggs, and 754.03 rubles,* thus committing a crime in contravention of Article 143, Paragraph 2, of the Criminal Code of the Ukrainian SSR.

On the basis of Article 34, Paragraph 3, of the Criminal Procedure Code of the Ukrainian SSR, the present case is within the jurisdiction of the Vinnytsia Provincial Court.⁹ On the basis of Article 225 of the Criminal

*1977 dollar equivalent is \$444.

*\$430.

Procedure Code of the Ukrainian SSR, it is referred to the Prosecutor of the Vinnytsia Province.¹⁰

The indictment was compiled on November 2, 1974 in the City of Vinnytsia.

V. Kravchenko
Investigator

JUDGE: Accused Stern, do you plead guilty and do you wish to testify?

STERN: I plead not guilty. I do wish to testify.

JUDGE: What are the opinions of the parties regarding the order of the court proceedings?

PROSECUTOR: I believe that we should establish the order of the court investigation and begin with an examination of the victims, then of the accused, and then of the witnesses. The first group of witnesses is for Article 143 of the indictment; the second group is for Article 168 of the indictment, and the third group consists of character witnesses.

DEFENSE COUNSEL: To my mind, there's a certain inconsistency in the prosecutor's position. Except for Huzhva, all the plaintiffs are only involved in Article 143. Huzhva is involved in two articles, so that the proposed order won't be kept to anyway. Furthermore, since to interrogate witnesses we have to establish who Stern is, what his position is, his official position, what the results were and so forth, I propose that we begin the proceedings with an examination of Stern himself and then of the witnesses and plaintiffs.

JUDGE: Accused Stern, what is your opinion?

STERN: My opinion is the same as my attorney's. I should only like to say that although I have no right to insist, I do request the court to believe me when I say that there is an urgent need to hear the accused first. And I hope that he will be able to show both the groundlessness of the indictment and the obvious discrepancy between the testimony of many witnesses and the material in the indictment.

JUDGE: Olnev, your opinion?

OLNEV: I agree with the prosecutor.

JUDGE: Plaintiffs, have you heard the two proposals? The prosecutor proposes beginning by examining the victims, then the accused, and then the witnesses, first on Article 143 and then on 168. What is your opinion? (*All the victims nod their heads to indicate that they agree with the prosecutor's proposal.*) Having conferred on the spot, the court has ruled to begin with an examination of the victims, then of the accused, and then to examine the witnesses in each episode. I declare an adjournment.

EXAMINATION OF WITNESSES

PLAINTIFF ANNA OVERCHUK, BORN 1935, MANAGER OF A VILLAGE STORE

FROM THE PRELIMINARY INVESTIGATION
Volume 1, case sheet 43

May 15, 1974

A STATEMENT

I began to have a suspicion recently about whether Stern was treating my son properly, and so I decided to make a voluntary statement to the Prosecutor's Office.

Anna Overchuk

Volume 1, case sheet 117

CONFRONTATION WITH THE ACCUSED MAY 30, 1974

"You are a spy. You were ordered to treat Soviet people improperly. You were paid to do this."

Volume 2, case sheet 216

A STATEMENT

Because Stern deceitfully obtained sixty-five rubles from me on the pretext that he would treat my son, I request that measures be taken to recover said sum.

Anna Overchuk

JUDGE: What do you know about this case?

OVERCHUK: In 1971, the Military Board¹¹ sent my child to the hospital here.

JUDGE: A boy or a girl?

OVERCHUK: A boy, Victor.

JUDGE: Born what year?

OVERCHUK: 1958.

JUDGE: Was he sent by the Military Board?

OVERCHUK: Yes, because he was lagging behind in growth.

JUDGE (*to the CLERK*): Are you keeping up?

CLERK: Yes.

JUDGE: Very well.

OVERCHUK: The first time my husband and a relative of ours took the child. I

didn't take him that time. A blonde woman wrote out the drugs for us, not the drugs . . . well, what do you call it?

JUDGE: The prescription?

OVERCHUK: The prescription. I went with this prescription to a pharmacy, but I couldn't get either the box or the drug. The second time I went with the child. I was referred to Stern. I went into his office and told him how I couldn't find the drug anywhere. Stern said that he could help me because he had friends and he would try to get the drug for me.

JUDGE (*to the CLERK*): Are you keeping up?

CLERK: Yes.

OVERCHUK: If he's going to get it for me, then it's understood that he'll charge me, he'll have to give me a bill. I placed twenty-five rubles on the table because I didn't have any smaller bills then. Well, I thought, there's no change or I owe him even more. If it's the right drug, then maybe we'll settle up the next time. The next time my husband went with the child. He gave the boy injections and made an appointment for him to come back. And then when . . .

JUDGE: Where did he give the injections?

OVERCHUK: In his office.

JUDGE: Ah-ha! In his office. I see.

OVERCHUK: The child came back at the appointed time. Well, we paid him sixty-five rubles for the drugs.

JUDGE: In other words you said that you gave . . . in all you gave . . .

OVERCHUK: I gave him thirty-five rubles in an envelope.

JUDGE: And the other two times?

OVERCHUK: My husband.

JUDGE: In other words you gave him thirty-five rubles directly—twenty-five and ten—and your husband gave him twenty and ten. Is that right? Sixty-five rubles in all.

OVERCHUK: Yes.

JUDGE: All right, and then?

OVERCHUK: Then we didn't give him any more money.

JUDGE: Does the prosecutor have any questions?

PROSECUTOR: Yes. Did the doctor examine your son in your presence?

OVERCHUK: Just like everyone else. He said that he might have to come for injections.

PROSECUTOR: I see. In other words he examined and studied him?

OVERCHUK: Yes, he said, "Your boy is retarded in the sexual organs."

PROSECUTOR: Is that all? Then how did you . . . in what circumstances did your son find himself outside the office after he had been examined, and why did he say that you had to speak to him?

OVERCHUK: The doctor took pity. He examined the child, and I cried a good deal. I knew that my poor boy was retarded, but I didn't know what he was going to say . . .

PROSECUTOR: Yes.

OVERCHUK: Other children might start talking about it.

PROSECUTOR: So who sent your son out? You said . . .

OVERCHUK: It's been a long time . . .

PROSECUTOR: You don't remember?

OVERCHUK: Maybe I said it or he did?

PROSECUTOR: Did you question your son the first time about his illness?

OVERCHUK: When the child was there, the doctor examined him and said that he was retarded. But then when I was giving him money the child wasn't there.

PROSECUTOR: The child wasn't there when you gave him money. Was your son given any injections the time you went with him?

OVERCHUK: The doctor didn't give him anything. The drugs weren't available yet.

PROSECUTOR: Were you sent drugs for this amount of money?

OVERCHUK: He didn't send it to me. The boy went himself. They gave the boy shots there.

PROSECUTOR: Who gave your son these injections?

OVERCHUK: The doctor himself.

PROSECUTOR: Dr. Stern?

OVERCHUK: Yes.

PROSECUTOR: Do you know for a fact that it was Dr. Stern who gave these injections and not someone else?

OVERCHUK: My son told me. I asked him when he came back.

PROSECUTOR: In other words, you know from your son that the injections . . .

OVERCHUK: The doctor gave the injections.

DEFENSE COUNSEL: Were you received by Dr. Stern or by another doctor?

OVERCHUK: I was sent there by a woman.

DEFENSE COUNSEL: Does she work as a doctor?

OVERCHUK: How should I know?

DEFENSE COUNSEL: You said that she prescribed drugs and you couldn't get them. Is that right?

OVERCHUK: It was my husband who went the first time. I don't know whether my son was examined.

DEFENSE COUNSEL: In other words, you tried to obtain drugs even before you went to see Stern?

OVERCHUK: Yes.

DEFENSE COUNSEL: And you couldn't?

OVERCHUK: That's right.

DEFENSE COUNSEL: Now I have the following question for you. When you went to see Stern, did he ask you for anything?

OVERCHUK: No.

DEFENSE COUNSEL: Who asked?

OVERCHUK: I asked him.

DEFENSE COUNSEL: In other words, you asked him to . . .

OVERCHUK: To cure my son.

DEFENSE COUNSEL: To cure your son. Very well. Now tell me, please. Did he examine your son in your presence?

OVERCHUK: Yes.

DEFENSE COUNSEL: As a mother you weren't astonished that the doctor in your presence . . .

JUDGE: Could you please go more slowly?

DEFENSE COUNSEL: . . . suggested that your son undress?

OVERCHUK: I wasn't astonished. That's what he's a doctor for.

DEFENSE COUNSEL: That's what he's a doctor for. And you're a mother. Now I have another question for you. After he examined your son he told you . . .

OVERCHUK: That he could help.

DEFENSE COUNSEL: Now I have the following question for you. You were referred by the Military Board. Did the Military Board examine your son after the treatment?

OVERCHUK: Yes.

DEFENSE COUNSEL: And he was found to be in good health?

OVERCHUK: This was the third time after that. He grew fifteen centimeters, gained weight, and grew.

DEFENSE COUNSEL: In other words, you have no claims against Dr. Stern as the attending physician?

OVERCHUK: Not against the doctor. Because the boy's no worse.

DEFENSE COUNSEL: That's what I'm talking about. Do you believe that he helped your son?

OVERCHUK: Either he did or I don't know. . . . Or perhaps he has a small build, just as I do. In appearance he grew a great deal.

DEFENSE COUNSEL: Then you believe that the results of the treatment were positive?

OVERCHUK: Either the results or the boy grew by himself.

DEFENSE COUNSEL: Now I have the following question for you. What do you think Dr. Stern is guilty of?

OVERCHUK: How should I know? Maybe of saying that he would get Dutch drugs and give the boy injections . . .

DEFENSE COUNSEL: In other words, you don't know?

JUDGE (*interrupting*): Did he give the injections himself?

OVERCHUK: Yes, he gave the injections himself.

DEFENSE COUNSEL: Then you don't know, you don't know for certain what Dr. Stern is being accused of?

OVERCHUK: How should I know?

DEFENSE COUNSEL: Then I have the following question for you. If we take the record of your statement, which can be found on case sheet . . .

JUDGE: Of volume 1.

DEFENSE COUNSEL: . . . on case sheet 46 of volume 1 there is the following entry: "Then the Military Board commission had no complaints about my son's health." Is this correct?

OVERCHUK: That's correct. My son is in good health.

DEFENSE COUNSEL: Now in connection with this I have the following question . . .

JUDGE (*to the courtroom*): Comrades, you're interfering in our proceedings. I'll be forced to evict you!

DEFENSE COUNSEL: When did you tell the investigator that you suspected the doctor was treating your son improperly?

OVERCHUK: It wasn't a suspicion.

DEFENSE COUNSEL: What was it then?

OVERCHUK: They simply told me that this . . . that maybe he shouldn't have been treated because I'm small in size and so is the child. Maybe he simply shouldn't have taken any more drugs, and so I didn't go back with the boy.

DEFENSE COUNSEL: All right. Then why did you state that you had a suspicion when your son had been cured and found healthy and the Military Board said it would take him into the Army? Why did you have a suspicion? If they had said he wasn't all right, wasn't suited, then it would be understandable, but when they said he was in good health—why did you have a suspicion?

OVERCHUK: What suspicion could I have?

DEFENSE COUNSEL: Then there was no suspicion?

OVERCHUK: My only suspicion is that maybe the boy shouldn't have been treated, and that's all. There was no suspicion.

DEFENSE COUNSEL: That he intentionally committed malpractice?

OVERCHUK: Not intentionally, but only because the child wasn't very big and maybe shouldn't have been treated. That's all it is. As for intentionally—no.

DEFENSE COUNSEL: And another question for you. You said, if I'm not mistaken, or perhaps I mis-heard, that Stern sent your son out of the office because you asked him yourself since you were talking about his condition?

OVERCHUK: You'd ask the same thing if your son were ill.

DEFENSE COUNSEL: I understand. But please explain how it happened.

OVERCHUK: I didn't want the child to be in the office.

DEFENSE COUNSEL: I understand you. You said quite rightly that it would be awkward to have him sitting there and listening to everything. But did you specifically ask the doctor, yes?

OVERCHUK: Yes.

DEFENSE COUNSEL: Then, as you said, you have no claims against Dr. Stern?

OVERCHUK: No.

DEFENSE COUNSEL: I have no further questions.

STERN: Anna Antonovna, yes?

JUDGE: You know we use "witness" as the form of address.

STERN: Witness.

JUDGE: Yes, witness!

STERN: I'm simply used to the doctor's way. I am very grateful to you for your testimony. Could you please tell us first of all . . . you know, of course, that your son was treated by other doctors before he came to me. I don't remember anything, of course. I've simply reconstructed everything from the chart and the questions here. I don't remember this incident at all.

JUDGE: You may take the case file if you like.

STERN: No, thank you. I've reconstructed it. You remember, no doubt, that your son was 141 centimeters tall and weighed 33 kilograms in October 1972.¹² He came in February 1973. I request the court to examine this chart and to see that when he went to the first physician, Dr. Slobodeniuk, he had the same height of 141 centimeters and weight of 33 kilograms. Second question. Why did Dr. Slobodeniuk refer your son to me for consultation?

JUDGE: All right, is the question clear? The court asks you to give an explanation to the question from the accused Stern.

STERN: Why did Dr. Slobodeniuk send him to me for consultation in February 1973 after four months of treatment?

OVERCHUK: How should I know? I'm not a doctor.

STERN: Am I permitted to explain?

JUDGE: Just a minute now, just a minute . . .

STERN: To this question . . .

JUDGE: We have to write this down: to give an answer to your question, that is, why Dr.—what is the name?

STERN: Dr. Slobodeniuk. At first she was . . .

JUDGE: Just a minute, just a minute. We've written it down: in answer to Stern's question she replied that she doesn't know why. Next question to witness Overchuk.

STERN: I'd like to explain to the court . . .

JUDGE: Accused Stern . . .

STERN: Anna Antonovna . . .

JUDGE: Accused Stern, just a minute. Let's do it this way. . . . Are there any other questions?

STERN: There are. There are still many questions.

JUDGE: Next question.

STERN: I only . . .

JUDGE: Let's have a question.

STERN: I'd like to explain.

JUDGE: Your explanation will be recorded later.

PROSECUTOR: The accused should give explanations when he's asked for them!

STERN: When he's permitted by the court!

JUDGE: Next question.

STERN: Did you ever see what was in the injections that I gave your son?

OVERCHUK: No.

JUDGE: She didn't see and she doesn't know exactly what preparations her son received in injections.

STERN: That's because I injected not one hormone, but four hormones according to my method. Next question. You know, of course, that my treatment gave brilliant results: your son has grown splendidly, gained weight, and become fit for military service. Do you know this at least now?

JUDGE: There's no need to explain this. She has no complaints in this respect.

STERN: You'll hear the complaints in just a minute—I'm a spy and poisoner! You stated at the confrontation that your son often came to see me and that he never paid me. Do you confirm this?

OVERCHUK: The child didn't pay.

STERN: Splendid. Thank you for confirming that during the seven visits your son made to me I personally gave him hormone treatment. Did you leave money specifically for this treatment?

OVERCHUK: Yes.

STERN: And the final thing. You understand, at least now, that Dr. Stern is

not a spy, that he did not poison people, and that he was not paid to perform malpractice on Soviet people?

JUDGE: Accused Stern, no one is accusing you of this. Do you understand?

STERN: No, I am being accused of this, and I shall say why. I ask you to raise . . . My defense counsel will say now . . . The point is that on case sheet 117 of volume 1 there is testimony at a confrontation. Let Anna Antonovna say it—I am very grateful to her for her objective testimony—why, on May fourteenth or on the sixteenth, it's not important which—why all the witnesses appeared on the scene between the fourteenth and the sixteenth. Why did citizen Overchuk become afraid that her son was being treated improperly precisely between the fourteenth and the sixteenth? Anna Antonovna, I beg you . . .

OVERCHUK: Well, how should I know?

STERN: Wait a minute, Anna Antonovna, I beg you, you can help me a great deal because in the end it isn't so easy to put me in prison and take this sin upon yourself. Tell me honestly, why did you tell me at the first confrontation, the day after I was thrown into prison for no reason at all, why did you say it? Who taught you to say it? Who came to see you? Who spoke to you? You said to me, "You were ordered to treat inductees improperly, you were paid to do this. You're a spy." Who taught you to say this? Tell the court and the people. Let them hear who is doing such things. And finally I request . . .

JUDGE: She hasn't replied yet.

STERN: Excuse me.

JUDGE (*raising his voice*): Did you hear? Who came to see you or did not come to see you?

OVERCHUK: How can I . . .

JUDGE: You heard Stern say—why does he connect this only with you?—that you . . . You've just heard him assert that you said these words to him at the confrontation. Did this or did this not happen?

OVERCHUK: It did not. No one came to see me. No one said anything to me.

STERN: I request the court to read my testimony.

JUDGE: There's no need to read everything. We will not read everything in court. And don't think that we're not informed.

STERN: No, read where she says that I'm a spy, that I was paid for this.

JUDGE: The court is interested in an objective examination of the case. Believe me, we'll examine everything we have.

STERN: I request that you read my testimony about how citizen Overchuk accuses me of being paid to treat inductees improperly. It's written down in the record of the confrontation.

JUDGE: No other questions?

STERN: I . . .

ASSESSOR: During the preliminary investigation you said that Stern warned you not to tell anyone about your son's illness.

OVERCHUK: I myself didn't want to tell anyone that my child was ill and to have children talking about it.

ASSESSOR: This was just advice, he advised you?

OVERCHUK: Well yes, so that other children wouldn't laugh.

STERN: You still haven't answered why you submitted a statement precisely on May 14, 1974, when my son received permission to emigrate. Why not sooner or later? I haven't received an answer.

JUDGE: Witness Overchuk, we want an answer to the question from the accused Stern. Have you understood the question?

OVERCHUK: Well, it must have been a coincidence. I didn't know . . .

JUDGE (*interrupting*): All right, are there further questions? No questions. Next!

WITNESS SEMEN HUZHVA, LOCKSMITH

FROM THE PRELIMINARY INVESTIGATION:

Volume 1, case sheet 17

May 15, 1974

A STATEMENT TO THE PROSECUTOR'S OFFICE

I suffered for a long time and still suffer now a moral and physical trauma on account of the heartless and simply inhuman attitude toward my sick wife Maria Huzhva on the part of Department Head Stern, who brought my wife to a very serious state, and also for swindling me and demanding bribes in the form of chickens, ducks, onions, garlic and money worth 500 rubles in all.

I can no longer keep silent about this and so have decided to speak up voluntarily about all of Stern's dishonest tricks.

My wife, my mother-in-law Melnyk, and the driver Mykhalsky know from me that I took money and produce to Stern.

During office hours, Stern usually walked up and down the hallways like a hawk waiting to pounce on a victim. Back and forth he would walk and then go up to his victim and say, "Let's go in," and then he would start what he did to me. He had many such victims, but I cannot name any.

When he met me, Stern would say that my wife needed to become pregnant. Then she would improve. She became pregnant in August 1973. She was getting worse and worse, and now her life is in danger. All the doctors say that pregnancy was and is contraindicated for my wife.

All this has forced me to speak up about the charlatanry of the bribe-taker Stern so that he will not be able to make other people suffer. This, in short, is everything that happened.

Semen Huzhva

Volume 1, case sheet 126

A STATEMENT MADE MAY 30, 1974

In addition to produce I gave Stern no less than 400 rubles in all. I cannot remember exactly how much, but it was no less than 400 rubles.

Semen Huzhva

Volume 2, case sheet 213

A STATEMENT MADE JUNE 21, 1974

Because Stern deceitfully deprived me of money and produce worth 250 rubles on the pretext of treating my wife, I request that measures be taken to recover this amount for me.

JUDGE: Do you know the accused? Are your relations with him normal? Or have you been quarreling with him, or are you related?

HUZHVA: No, we're not related, but I do have a grievance.

JUDGE: A grievance? You had a quarrel, some sort of . . .

HUZHVA: We didn't quarrel.

JUDGE: . . . personal score. Now tell us what you know about this case, when and how you met Dr. Stern, and what you had to do with him in general.

HUZHVA: My wife had an operation when she took ill. After that it became very bad for her, and I took her to Vinnytsia, to this—you know. Well, we got in line there. Stern wasn't calling anyone in. "You have a sack in your hand," he says, "the weeds around the hospital have to be pulled up. You go too," he says to my wife. But I said, "She won't go, she can't." Everyone was working outside. "Well, you'll come into my office," he says. Well, I went in, and he immediately says, "I guarantee that your wife will recover in six months or a year. I guarantee it, but you'll have to give me a gift." My wife stayed for observation, he made her stay, and I went home. I turned to my

mother-in-law because there was no money in the house. I got a fifty-ruble bill, came back here, my wife was staying for the night. Well, when I went in there, he called me into his office and appeared with my wife.

JUDGE: This happened the next day?

HUZHVA: The next day. I went to mother and came back. When I went into the office, he was already talking to my wife. I gave him fifty rubles, put it in his hands with my own hands. He took the fifty rubles and sent my wife to the hospital. She spent about a month there.

JUDGE (*with satisfaction*): All right. And you came to see your wife at this time?

HUZHVA: I did, about twice a week.

JUDGE: All right. Did you see the doctor?

HUZHVA: I always saw him. He would shake hands with me. I gave him money many times.

JUDGE: You said that you gave him fifty rubles. And then how much?

HUZHVA: Twenty-five rubles.

JUDGE: Which time?

HUZHVA: It was the second time.

JUDGE: Why did you give him more money?

HUZHVA: He sent us to Kiev for a consultation later. "Give me money and I'll refer her to the Institute," he said. So I gave it to him. I don't remember how much—either twenty-five or thirty-five. In Kiev we were examined by a professor. Then she spent time at the hospital again. Later he took another twenty-five rubles for a certificate for the Medical-Labor Board about a pension.¹³ He also said to me, "Bring produce," and I brought him eggs, chickens, ducks, and onions. I was at his house three times. His wife took all this.

JUDGE: Did you pay him for drugs?

HUZHVA: My wife went back to Vinnytsia for a re-examination in March 1974. Some other doctors gave her a certificate. She went to Stern, and I gave him twenty-five rubles for the injections. I paid four rubles for them at the pharmacy and then gave him another twenty-five rubles in his office.

PROSECUTOR: So you are saying that you gave him fifty rubles for hospitalization and thirty-five rubles for a referral to Kiev. But during the investigation you said that you gave him forty rubles.

HUZHVA: I don't remember. I think I gave him forty-five.

JUDGE: A moment ago you said thirty-five, and now you're saying forty-five.

HUZHVA: I don't remember.

PROSECUTOR: Did you give him money on any other occasions?

HUZHVA: I did, but I don't remember . . . for treating her at the hospital.

JUDGE: But Stern didn't work at the hospital where she was staying.

HUZHVA: But I went to see him in his office at the Outpatient Clinic and gave him money there many times.

JUDGE: Why did you give money to Stern if he was working in the Outpatient Clinic and your wife was at the hospital and he wasn't treating her?

HUZHVA: Well, what if it was the hospital? He said he'd cure my wife.

DEFENSE COUNSEL: Who gave you the first fifty rubles for which you went back to your village?

HUZHVA: I got it from my mother-in-law. Our driver took me. I told him the whole story.

JUDGE: What is the driver's name?

HUZHVA: Mykhalsky.

DEFENSE COUNSEL: Did your mother-in-law know what the money was for?

HUZHVA: Yes, I told her everything.

JUDGE: And did your wife know that you were giving Stern money?

HUZHVA: She did, but not about all of it. I gave the fifty rubles for hospitalization and the forty-five rubles for the referral to Kiev in my wife's presence. I also got money from my mother. I remember that she took it from her savings account, and I also got money from Anna Melnyk, my mother-in-law, very often.

VOICE FROM THE COURTROOM: For vodka!

JUDGE: Who dared to say that? We'll evict you from the courtroom! (*To HUZHVA*) Did Anna Melnyk go with you to visit her daughter?

HUZHVA: Yes, we went together. We took onions, eggs and a duck, and my mother-in-law and I brought all this to Stern's apartment. His wife was there, but he wasn't. We waited a while, and then my mother-in-law went to the hospital to see my wife, and I stayed behind to wait.

PROSECUTOR: Do you really drink? Stern claims that you drink and that you stole a watch from him. Did you steal a watch from Stern?

HUZHVA: No, I don't even drink beer. I have an ulcer. I didn't see any watch.

PROSECUTOR: What sort of relations do you have with your wife? Stern claims that you deserted her and that you're a ladies' man.

HUZHVA: No, how can you say that? I have two children, one of them six months old.

DEFENSE COUNSEL: Where did your wife have her operation?

HUZHVA: At our hospital.

DEFENSE COUNSEL: Do you know what she had removed?

HUZHVA: I don't.

DEFENSE COUNSEL: When did you first go to Stern?

HUZHVA: Right after the operation.

DEFENSE COUNSEL: Are you quite certain that you went to Stern first and not to another doctor?

HUZHVA: Yes, I'm quite certain. I saw Stern first.

DEFENSE COUNSEL: Are we to understand that your wife went into the hospital the day after you arrived?

HUZHVA: Yes, that's right.

DEFENSE COUNSEL: Did you visit her at the hospital?

HUZHVA: Yes, I did.

DEFENSE COUNSEL: Did you speak to her attending physicians?

HUZHVA: No, I didn't speak to them. I only went to see Stern.

DEFENSE COUNSEL: But he doesn't work there! Did you speak to the hospital director?

HUZHVA: No.

DEFENSE COUNSEL: Did you give other doctors money?

HUZHVA: No, I didn't.

DEFENSE COUNSEL: Your wife is continuing to receive treatment?

HUZHVA: Yes.

DEFENSE COUNSEL: Did you have a talk with Stern about her pregnancy?

HUZHVA: Yes, he said it would be a good thing for my wife to become pregnant and that this would help her.

DEFENSE COUNSEL: Did she hear him say this?

HUZHVA: Yes, it happened in her presence. She heard.

DEFENSE COUNSEL: The case file contains your suit against Stern, in which you write that you gave him 500 hundred rubles in all. But elsewhere you say that you gave him only 400 rubles. There is also a statement by you in which you write that you gave Stern 250 rubles and ask that it be recovered from Stern. Today you've counted up about 170 rubles. (*Laughter in the courtroom*) Why do you keep changing the amount?

HUZHVA: I'm talking about what I remember. I don't remember exactly about the rest of the money.

DEFENSE COUNSEL: What produce did you bring Stern?

HUZHVA: Eggs, onions and ducks.

DEFENSE COUNSEL: How much?

HUZHVA: It happened three times, but I don't remember exactly. (*Laughter in the courtroom*)

DEFENSE COUNSEL: Is your wife still under treatment? How does she feel?

HUZHVA: Well, she's always drinking medicine.

DEFENSE COUNSEL: Did you know that your wife had her parathyroid glands removed by mistake?

HUZHVA: No, I didn't know.

STERN: Why did you wait four years to write a complaint about me? Why did you write it precisely on May 15?

(*HUZHVA does not answer.*)

STERN: Second question. Huzhva is the only witness to name a large sum of money. Why did you give me money when I was the Director of the Outpatient Clinic and had nothing to do with the hospital where your wife was or with her treatment?

HUZHVA: You prescribed the treatment. He* wrote everything down on the chart. He promised to cure her.

STERN: The warrant for my arrest says that you brought me produce worth 250 rubles on three occasions, but what you've mentioned here today barely comes to twenty-five rubles.

HUZHVA: I didn't specify the sum. They added it up wrong.

STERN: Do you know that Olga Andreevna, who treated your wife, is an assistant to Professor Zelinsky? Did they tell you that your wife is incurably ill because her parathyroid glands were removed?

HUZHVA: They didn't tell me. You promised to cure her.

STERN: Who prompted you to write a complaint about me on May 15, when my son received permission to emigrate and immediately after the break-in at my apartment?

HUZHVA: Nobody prompted me. I have a grievance against you.

PROSECUTOR: Do you know that Stern's sons are emigrating?

HUZHVA: No.

WITNESS MARIA HUZHVA, BORN 1948

HUZHVA: I had an unsuccessful operation. I was referred to a panel of doctors at the Health Center. I went there and saw Stern. He promised to put me back on my feet in half a year. We thought that Stern was promising to cure me. He said to my husband, "Give me a gift and your wife will be cured in half a year." Well, since it was a question of money, my husband left me at the hospital and went home to get money. He came back with fifty rubles, gave it to Stern, and I was admitted to the hospital.

JUDGE (*cautiously*): Where did he give the money? At home or there . . .

HUZHVA: At the office. Later my husband gave him money every time

*The antecedent is unclear in the Russian text. The witness may have turned to the judge or the prosecutor. [Editor's note]

he came, and later they said to me, “Your condition is incurable.”

JUDGE (*cautiously*): Don’t rush, please. What did he tell you about this?

What happened between them there? What did they talk about?

HUZHVA: Well, he asked if I was better or worse or what. And he said that if I stay in longer, the illness will pass.

JUDGE (*cautiously*): Did your husband say anything regarding money?

HUZHVA: Well, of course, when he said everything would be all right, he gave him money.

JUDGE: How much, did he tell you how much?

HUZHVA (*flustered*): Well, he said he gave twenty-five and thirty-five.

JUDGE: How many times?

HUZHVA: How can I remember how many times? They told him they’d cure his wife, so we were glad to give everything. I had been hospitalized many times, and nothing helped. Stern referred us to Kiev. I went to the Kiev Institute of Endocrinology to see Professor Romashkin. Then when I came back from Kiev they put me in the hospital here again. I was taking something, but I don’t remember what I was taking. Well, and then I had—I don’t know—either some sort of injections or something. The treatment wasn’t doing me any good because my condition is incurable. Then I was sent to the Medical-Labor Board. I couldn’t work.

JUDGE: Who sent you?

HUZHVA: Stern. Well, all right, we went to see Stern again.

JUDGE: How much did you give him?

HUZHVA: Thirty and thirty-five.

JUDGE: Who gave it to him?

HUZHVA: My husband did. I didn’t. Why should I . . . I don’t know what Stern told my husband.

JUDGE: Where was the Medical-Labor Board?

HUZHVA: In Koziatyn. Well, then a year later I saw Stern. In the beginning I came almost every day for tests, and then I went for the re . . . well, the re-examination. I needed a certificate from the Vinnytsia hospital. Well, when I came I usually saw Stern. He said, “I’m not authorized to issue a certificate for you. Let your regional hospital issue one. I’m not authorized.” So I went to my hospital. My doctor issued one for me. When I came back, they didn’t want to take me out of turn. They made my husband pull up nettles to take me out of turn.

JUDGE: And then what?

HUZHVA: We went to the city to get the drugs. I was on injections every morning and evening. We went to a pharmacy, but they didn’t have the drugs. Then my husband left me at the pharmacy and went to the

hospital by himself. When he came back, I already had the drugs.

JUDGE: He went to the hospital, he gave something? Who did he give it to, what did he give?

HUZHVA: Well, he gave Stern money.

JUDGE: He gave Stern money. For what?

HUZHVA: So that I could get the drugs.

JUDGE (*with satisfaction*): Yes, go on.

HUZHVA: Well, and then we have a grievance because Stern said, "Everything will be all right when you become pregnant." I had a baby, but nothing is better, and I'm still on medication the way I was before. And I don't know how the baby will be . . .

JUDGE (*interrupting*): How do you feel now?

HUZHVA: My answer is that if I drink my medicine, what I was drinking, then I feel all right, but if I don't I feel bad.

JUDGE: Did you feel any improvement after your baby was born?

HUZHVA: No, I didn't.

PROSECUTOR: Would you tell us please, the last time you went to see Stern to get a certificate for the re-examination you didn't get this certificate from him. Can you tell us how you got out of this situation?

HUZHVA: I went to my physician, the one who had treated me at the Dispensary.

JUDGE: What is the physician's name?

HUZHVA: Her name is Olena Semenivna.

PROSECUTOR: Did she give you this certificate?

HUZHVA: Yes.

PROSECUTOR: Did your . . . husband pay for the hospitalization?

JUDGE: The question may not be put this way.

PROSECUTOR: No? Well, all right. Then I'll put the question differently: why did your husband pay Dr. Stern fifty rubles?

HUZHVA: I was sent to the hospital and admitted. I stayed at the hospital. Well, when he said he'd cure his wife.*

PROSECUTOR: What day were you admitted to the hospital?

HUZHVA: It was that same day. They didn't have a spare bed, so they put me in the hallway.

PROSECUTOR: Do you know who went to the trouble to have you put in the hallway when there was no spare bed?

*There are curious uses of the third person in referring to oneself found throughout the transcript. There is an endemic illiteracy among the witnesses that gives rise to an uncertainty about the use of first and third person and direct and indirect discourse. The Translator presumes that many situations were clear only within the entire context, visual as well as verbal, and has taken it on himself to reconstruct in certain situations where a literal rendering would be unintelligible. [*Editor's note*]

HUZHVA: Stern.

PROSECUTOR: Stern went to the trouble. Was this money given in your presence?

HUZHVA: Yes, we were sitting in Stern's office.

PROSECUTOR: What else do you know about the payment of the money and what it was for, and how do you know about this?

HUZHVA: My husband paid for the Medical-Labor Board, for example.

PROSECUTOR: The payment was for issuing a referral to the Medical-Labor Board, yes?

HUZHVA: Yes.

PROSECUTOR: And did you pay for the referral to the Kiev Institute of Endocrinology?

HUZHVA: We paid when I was there.

PROSECUTOR: You were there then.

HUZHVA: Yes, we gave him thirty-five rubles then.

PROSECUTOR: You said that you went to the pharmacy and got the drug there. Was Stern paid for the drug in your presence?

HUZHVA: I was at the pharmacy, and he went to Stern and gave him the money. Stern called the pharmacy, and I received the drug.

PROSECUTOR: Was this in your presence or do you know this from your husband?

HUZHVA: No. I was at the pharmacy.

PROSECUTOR: Now, do you know anything regarding where your husband got the money to pay Dr. Stern? In addition to the fifty rubles that he borrowed from your mother?

HUZHVA: He also got money from his mother. His mother took it out of her savings account.

PROSECUTOR: This was . . . How do you know this?

HUZHVA: Because I know that his mother had money in her account, but now she tells me that she doesn't have any.

DEFENSE COUNSEL: You have told us that you underwent an unsuccessful operation and then were referred to the Vinnytsia Clinic. Who did you see there, Stern right away or another doctor?

HUZHVA: We were seen by Stern. People said Stern was a good doctor, and I went to him.

DEFENSE COUNSEL: You didn't see any other doctors?

HUZHVA: No, I didn't.

DEFENSE COUNSEL: You remember precisely that you came on the first day and were admitted to the hospital on the next day?

HUZHVA: Yes, I think so.

DEFENSE COUNSEL: Your husband says the same thing. Could you tell us, please, who treated you, what doctor?

HUZHVA: The first time it was Muza Nikandrovna, and then Olga Andreevna.

DEFENSE COUNSEL: Did Stern treat you when you were at the hospital?

HUZHVA: No, he never even showed up at the hospital. I told everybody that I should be treated by Stern and not by other doctors.

JUDGE: Did you make any complaints?

HUZHVA: Yes.

JUDGE: To whom?

DEFENSE COUNSEL: To Stern?

HUZHVA: Well, I talked to the other patients. What's going on? I asked. One doctor admits me, but other doctors treat me.

DEFENSE COUNSEL: Your husband came to visit you twice a week. Is that correct?

HUZHVA: Yes.

DEFENSE COUNSEL: Did you tell your husband that you were being treated by Muza Nikandrovna?

HUZHVA: I did.

DEFENSE COUNSEL: And did your husband complain to Stern that he was getting money but not coming to see you?

HUZHVA: I don't know.

DEFENSE COUNSEL: Did you or did you not consult with Stern before becoming pregnant?

HUZHVA: No, I was already pregnant when I came to the hospital . . .

DEFENSE COUNSEL: Then you were already pregnant when you came.

HUZHVA: I was already pregnant.

DEFENSE COUNSEL: Stern didn't tell you that you should become pregnant. You simply came and told him that you were pregnant. Is that right?

HUZHVA: Yes.

STERN: All right. Did you see our gynecologist about your pregnancy?

HUZHVA: I did.

STERN: What did she tell you?

HUZHVA: She said that this . . . "Why didn't you come sooner? You are not allowed to give birth," she said and sent me immediately to the maternity hospital. I spent two months there.

STERN: When did you learn that your condition is incurable?

HUZHVA: I was told long ago, after the operation, that I have a life-long condition.

STERN: Why did you have to take money from your parents? Were you not earning enough or what?

HUZHVA: We were building a house then.

ASSESSOR: Tell us what your relations with your husband were like. Stern says that he deserted you.

HUZHVA: I get along with my husband very well. He takes care of me. I'm even envied.

JUDGE: Now Stern claims that he drank this money away. What do you say to that?

HUZHVA: No, how can you say that? He's a very good husband.

PLAINTIFF HALYNA PLIASUN, BORN 1937

FROM THE INDICTMENT:

While assisting her in obtaining "scarce foreign drugs," as Stern put it, he sold Pliasun on January 24, 1969 for the treatment of her son Serhiy a box of choreogonin worth 2.28 rubles for 40 rubles, pocketing the difference of 37.72 rubles.

PLIASUN: I have two children, a daughter and a son. My son Serhiy was referred to Vinnytsia by the Military Board, and I took him to Stern. He examined the boy and prescribed treatment, wrote out pills—I don't know what kind—and injections. The course of treatment required that he take them for a month under the observation of our doctors. Stern also prescribed choreogonin for us. My son was treated for about a month, I don't remember exactly. Well, about a month later, perhaps a bit more, I don't remember exactly now, we went to see Stern again. He examined him and said that the treatment was having an effect but that choreogonin was still necessary. But we had looked for it at the pharmacy in Vinnytsia and in Moscow and Kiev. We couldn't even get it in Leningrad—we had friends there. When I was there the second time we happened to spend the night at the hotel in Vinnytsia. We went to the doctor every time. We went for blood tests. He said to us, "I have good news for you. I've obtained one box of choreogonin, but it costs forty rubles." How and in what circumstances . . . But it seems to me that either the wife or the daughter of a serviceman from Hungary was a patient at the hospital, and she could get it for us. He said that according to what he was told, these injections cost forty rubles. He said they had to be taken under a doctor's observation and gave the injections, and we went home that same day.

JUDGE: How many times, how many injections were given?

PLIASUN: Five times. There were five ampules in the box and five solvents, similar to penicillin. He told us that the injections had to be administered under strict medical supervision because the child was little. And so we gave them, I think, once or twice a week. I don't remember exactly. We gave him one injection, and everything seemed all right. When we gave him the second injection he became very agitated during the night, but he had had red eyes before that. So I went back to the doctor. When I got there, some doctors were sitting there. They said that Stern wasn't there. They were receiving patients instead of him. They said they would discontinue the injections for the time being. And then in Odessa we registered at a private clinic, and there they advised us not to give these injections any more, and so we stopped them.

JUDGE: What was the list price of these injections?

PLIASUN: I don't know.

PROSECUTOR: How many ampules and solvents were there?

PLIASUN: No more than five and no less than four.

JUDGE: Do you know why the prosecutor is asking about the quantity of ampules?

PROSECUTOR: During the preliminary investigation you said there were four, but now you've said there were five.

PLIASUN: Yes, you can reckon that there were no more than five and no less than four.

PROSECUTOR: Why did you give forty rubles and not ten or twenty?

PLIASUN: That's what I was told.

PROSECUTOR: Who told you?

PLIASUN: Dr. Stern said that this was the agreement he had made, this was how much it cost.

PROSECUTOR: No questions.

DEFENSE COUNSEL: You said that you looked for the drug in three cities.

PLIASUN: Yes.

DEFENSE COUNSEL: It wasn't available anywhere. Then you said that the next time the doctor said he had good news for you, that the drug was available. Did you really take it as good news?

PLIASUN: Of course.

DEFENSE COUNSEL: You said today that you would have bought it at any price. Is that true?

PLIASUN: Of course. As a mother I was concerned about my child.

DEFENSE COUNSEL: Now I have the following question. You said that Dr. Stern got this preparation from the wife of a serviceman?

PLIASUN: I don't remember exactly. I know that he said they had a patient, possibly a serviceman, and they are treated I don't remember how.

DEFENSE COUNSEL: And he told you that the owner of this preparation was asking for the money?

PLIASUN: Of course.

DEFENSE COUNSEL: Then how did the doctor deceive you?

PLIASUN: He didn't deceive me in any way.

DEFENSE COUNSEL: In other words, you don't think that he deceived you?

PLIASUN: I'll be pleased if it all ends well.

PLAINTIFF ANNA MATVIENKO, SCHOOLTEACHER

FROM THE PRELIMINARY INVESTIGATION:

Volume 1, case sheet 7

May 16, 1974

A STATEMENT TO THE PROSECUTOR'S OFFICE

Please explain to me whether my son was treated properly. And are the injections that my son received permitted for use at all? As a mother I trusted the doctor. In our country doctors stand on guard and protect the health of people, especially of young people.

Anna Matvienko

MATVIENKO: My son Vitaliy was called for an examination at the hospital together with other children. The next day I went to the hospital. When I arrived at the hospital the first time, a woman doctor called me over and said, "You know, your son is underdeveloped. Go to Vinnytsia, there's a good doctor there . . ."

JUDGE: The woman doctor told you this herself?

MATVIENKO: Yes, she said there was a good doctor, a doctor named Stern. She said, "He'll cure him, he'll help you." Well, the next morning I immediately went to get a referral and traveled to the hospital in the city. When I got to the receptionist, I asked to be sent to Stern. I went to the doctor's office, and there was a short line. I waited in line until the doctor received us. He appeared to be a good doctor, very pleasant. People probably pick him because he's a good doctor. He examined him all over, measured and weighed him, looked him over, listened to his lungs, and everything else. But he said he'd have to prescribe treatment for him. So he prescribed treatment. He wrote out choreogo-

nin, sustanon, apilac and some other pills, I don't remember what they were called. Then we went to the pharmacy. . . .

JUDGE: With the prescription?

MATVIENKO: Yes, with the prescription. And he didn't prescribe choreogonin, but just said that it needed to be taken. But he didn't include it in the prescription because it wasn't available either at the hospital or at the pharmacy. I wrote down choreogonin myself. I got the apilac and something else, and we went home. But I needed the choreogonin. That was the main thing. Two weeks later I came back. I had looked for choreogonin all over. When I left I started with this doctor here and asked for it at every pharmacy in Vinnytsia. I went to Haisyn and Dashiv. I went to Illintsi. I went back to Stern and told him the drug wasn't available anywhere. Where was I to get it, I cried. He gave me a box of choreogonin. I put down twenty-five rubles for him. He didn't demand money, he didn't ask me for anything. I put it down myself. Stern didn't make the injections. But he did ask me who would be giving the injections. We have a doctor's assistant in the village, I told him, and he'll be giving the injections. Then he examined my son again and said that his tonsils had to be removed. Later I saw him again and all together gave him fifty-five rubles. Twenty-five the first time, then twenty, and then ten. Later he got sustanon and choreogonin for me.

PROSECUTOR: Did you know how much this drug costs?

MATVIENKO: I knew the second one was more expensive, but the important thing for me was the drug.

DEFENSE COUNSEL: Did the doctor tell you how much you were supposed to pay for the drug?

MATVIENKO: No, he never asked for money. I gave it to him myself.

DEFENSE COUNSEL: Did you have a hard time getting in to see Stern?

MATVIENKO: No, not at all.

DEFENSE COUNSEL: Did he ever ask you to pay him for the treatment?

MATVIENKO: No, never.

DEFENSE COUNSEL: Did he examine your son?

MATVIENKO: Yes, many times and always very thoroughly.

DEFENSE COUNSEL: Did you ever manage to buy sustanon and choreogonin at a pharmacy?

MATVIENKO: No, never. Stern got them for me.

DEFENSE COUNSEL: In other words, you determined the price of the drugs yourself?

MATVIENKO: Yes, I did.

STERN: You said at the confrontation that you put the money down when the doctor wasn't looking. Do you confirm this or not?

MATVIENKO: I don't know whether you saw or not.

STERN: Next question. Tell the court clearly, do you confirm that you were crying when you came to see me the first time because the endocrinologist in the Illintsi region—you are from the Illintsi region?

MATVIENKO: Yes, I am.

STERN: . . . told you that although your boy was sixteen his sexual development was that of a three-year-old?

MATVIENKO: Yes, I was crying, screaming and . . .

STERN: A three-year-old, I emphasize that. You confirm that after treatment according to my method was prescribed I showed your son to the doctors at the Clinic as an example of how hypogenitalism can be brilliantly cured in six months. That is, after a very short period of time your son became a completely normal man.

MATVIENKO: Yes, there was an incident when you showed him to three women doctors.

STERN: Do you realize that if I admit this incident—I've completely forgotten it and am restoring it from the chart and your testimony—the choreogonin and sustanon which were brought in by people who no longer needed them could have cost much more than in the pharmacies?

MATVIENKO: I wasn't thinking about how much more they might be. I was thinking about how to save my son, and no matter how much it might have cost, even if you had suggested I pay you, I would have given it to you. But you didn't suggest that to me.

STERN: Are you grateful to the doctor who cured your son?

MATVIENKO: If the boy . . . if my boy has developed normally and will be healthy and if the drugs don't have an effect on his other organs, then I am extremely grateful to the doctor.

STERN: The last question. Why did you submit a statement to the Prosecutor's Office precisely on May 16, when my son received permission to emigrate? Precisely on May 16! I ask you to explain this to me. Who disturbed you, who prompted you to write the statement, "Please explain to me"—and you're saying this now too—"whether my son was treated properly and are the injections that my son received permitted for use at all? As a mother I trusted the doctor. In our country doctors stand on guard and protect the health of people, especially of young people"? I . . .

JUDGE: You don't have to answer that.

STERN: I . . . I demand!

JUDGE: Just a minute, the court will ask questions now. Why did you send in this statement at precisely that time and not sooner or later?

MATVIENKO: Not sooner or later because the boy began to be fidgety in the

mornings, and I thought that maybe it was the sustanon doing it. After all, sustanon is for adults.

JUDGE: Did you know about the departure of Dr. Stern's sons?

MATVIENKO: I didn't know that his son or sons were supposed to leave.

STERN: How do you explain the alarm in your statement about your son's improper treatment?

MATVIENKO: No, he was treated properly. No, he had to be treated, but the drug didn't have to be given, the sustanon. That's for adults. . . .

STERN: I did not deceive Matvienko in any way. I treated her son and cured him. That's the important thing. As she herself said here, she had no difficulty in getting to see me and I received her well. But Kravchenko stubbornly writes: "Didn't receive, refused, chased away." When her sixteen-year-old son came to the Dispensary for treatment, experienced doctors were horrified: this tall, good-looking boy had the sexual development of a three-year-old. She stated that Stern didn't specify the cost of the preparations. She looked for them everywhere and couldn't find them. I am convinced that I couldn't have taken extra money from her, more than these drugs were worth. And if this was done in the interests of the patient and citizen Matvienko states in court that she is grateful to me, why occupy ourselves with petty and senseless accounts, when the very fact of such a successful treatment indicates that a much larger quantity of drugs was used than the indictment mentions?

PLAINTIFF MYKHAILO SUSHKO, BORN 1928, COLLECTIVE FARMER

FROM THE INDICTMENT:

After examining on December 10, 1971 inductee Petro Sushko, who was suffering from retarded sexual development, and having prescribed treatment for him, [Stern] offered his father, Mykhailo Sushko, two vials of thyroidin worth 30 kopecks*, and when Sushko asked how much the drug cost, demanded 10 rubles, thus making a profit of 9.70 rubles. When the vial of thyroidin offered to citizen Sushko was examined, the price indicated on the vial was found to have been erased.

SUSHKO: The medical commission at the Military Board referred my son to the Clinic in Vinnytsia.

*100 kopecks = one ruble.

JUDGE: Who received you for consultation?

SUSHKO: Stern. He examined my son, checked him over, and did all the tests.

JUDGE: Yes, go on.

SUSHKO: He said he would cure my son. He gave me two glass vials with drugs. . . .

JUDGE: Wait a minute. The doctor gave you two vials. Do you remember what this drug was called?

SUSHKO: They were some sort of small cubes, I can't remember.

JUDGE: You can't remember. Two vials. All right, did you give him anything for them?

SUSHKO: I didn't give him much, just a little money. He didn't demand anything from me. I gave it myself.

JUDGE: How much did you give him?

SUSHKO: A ten-ruble bill.

JUDGE: Ten rubles. He didn't ask for this money?

SUSHKO: He didn't say anything. I gave it to him myself. They told me that everything was written down there. Let's say that this . . . was for his good attitude toward me. Then my son went to school, and they injected these drugs there. He came home a week later, and when I looked him over I saw that the boy was becoming normal because he began to have treatment immediately after we learned what his illness was.

JUDGE: Then you figure that this drug helped?

SUSHKO: Yes, it helped, and then later he went for an examination by himself.

PROSECUTOR: Did you ask the doctor for these two vials?

SUSHKO: I did. He said that . . . everything would be all right.

PROSECUTOR: Did you ask how much they cost?

SUSHKO: I did. And he said, "Look, it says thirty kopecks here." So there . . . He didn't demand anything from me. He didn't require anything.

PROSECUTOR: What didn't he demand?

SUSHKO: He didn't demand anything.

PROSECUTOR (*imitating him in an irritated way*): Didn't demand, didn't demand! But how much were you to pay, did you know that or not? Why did you pay ten rubles and not five rubles or thirty kopecks, as the medication was worth?

SUSHKO: Well, when he said all those encouraging things . . . I gave him . . .

PROSECUTOR: But who forced you to pay ten rubles?

SUSHKO: I paid it myself.

PROSECUTOR: You paid it yourself? But in the record of your interrogation during the preliminary investigation you stated, ‘‘I asked how much this medication cost. Stern replied, ‘Ten rubles.’’’ So how are we to understand you?

SUSHKO: No, I gave him the ten rubles myself. He didn’t demand anything.

PROSECUTOR: But did you ask Stern how much these two vials cost?

SUSHKO: Yes, and he told me that they cost thirty kopecks.

JUDGE: Can you guess why the prosecutor is tormenting you so? No! Remember what you said during the preliminary investigation. Here are your words. (*The JUDGE reads.*) What do you say to that? Is it true?

SUSHKO: But I was in his office.

JUDGE: Just a minute, answer the question. Did Stern tell you the price of the drug?

SUSHKO: He did not.

JUDGE: Do you realize that there’s a discrepancy between what you said during the preliminary investigation and what you’re saying now?

SUSHKO: Stern did not tell me how much money I should give him. I gave it to him myself.

JUDGE: Then where’s the truth—in what you’re saying now or in what was written down?

SUSHKO: If it was written down, then maybe it’s true.

PROSECUTOR: What did you say about this case in your statement?

SUSHKO: That I have no claims against the doctor.

PROSECUTOR (*jumping up hysterically and advancing toward SUSHKO*): What does it say here? Who wrote this? Read it! (*SUSHKO moves his lips in confusion.*) Why aren’t you reading?

SUSHKO: I am reading.

PROSECUTOR (*hysterically*): Aloud, read it aloud!

SUSHKO (*reading by syllables*): He . . . said . . . that . . . the . . . me . . . di . . . ,a . . . tion . . . cost . . . ten . . . ru . . . bles.

PROSECUTOR: All right, you wrote that in your own hand. Now tell us if he stated the price or not. Try to remember Stern’s words when he gave you the medication.

SUSHKO: A little over two rubles.

JUDGE (*exhausted*): But you’re giving different evidence! Do you understand that? What happened in fact?

SUSHKO: In fact he said they cost thirty kopecks each.

JUDGE: Then why did you give him ten rubles?

SUSHKO: I wanted to thank him. We took a liking to the doctor.

JUDGE: Then why did you testify that he asked you for ten rubles?

SUSHKO: They told me . . .

PROSECUTOR: Who spoke to you about this?

JUDGE: That is an improper question.

PROSECUTOR: Excuse me. Did anyone instruct you how to conduct yourself in court?

SUSHKO: They came . . .

PROSECUTOR: Who came?

SUSHKO: The prosecutor.

Laughter in the courtroom.

JUDGE: Do you understand why the people are laughing? What happened in fact?

SUSHKO: He did not demand money.

JUDGE: Any other questions?

DEFENSE COUNSEL: The case file contains a statement that you gave Stern money and that you have no claims against him. Do you really have no claims?

SUSHKO: No, I do not.

DEFENSE COUNSEL: You said that Stern named the price of thirty kopecks. Why did you give him ten rubles?

SUSHKO: For receiving us well. He explained everything to me, how to take . . .

DEFENSE COUNSEL: Then you were satisfied with the way you were treated?

SUSHKO: Yes.

DEFENSE COUNSEL: You went to the doctor. Did he see you the same day?

SUSHKO: He saw us immediately.

DEFENSE COUNSEL: He examined your son?

SUSHKO: Yes, he examined him very thoroughly.

DEFENSE COUNSEL: Before he gave you the drugs, did Stern perhaps ask for money or did people in the corridor say that he had to be given money?

SUSHKO: No, there was nothing of the sort.

STERN: Thank you for your testimony.

PROSECUTOR: I protest. Gratitude should not be expressed for testimony.

JUDGE: A reprimand to Stern.

STERN: You said that your son came to me later for injections. Is that so?

SUSHKO: Yes.

STERN: Do you know that I injected him with my own drugs, for which I did not take money?

SUSHKO: That's quite right. I did not give him money.

STERN: Are you grateful to me for curing your son?

JUDGE: The question is stricken. The court examines the vial received from Sushko and verifies that the price on it has been erased.

SUSHKO (*taking the vial and holding it up to the light*): Maybe it can still be seen. . . . The price was there.

DEFENSE COUNSEL: What a delightful detective story! From the material of the preliminary investigation I assumed that the Sushko episode had been completely substantiated. We have seen how reliable this "testimony" was. But the strangest thing, the thing that most exposes Investigator Kravchenko is that Sushko said the price was there. Who erased it? We will have to ask Kravchenko about this.

JUDGE: We shall have time to discuss this oral argument. Next!

PLAINTIFF NYKYFOR BEZKURSKY, BORN 1922, SCHOOL-TEACHER

FROM THE INDICTMENT:

While examining Volodymyr Bezkursky on September 23, 1971, Stern told his father, Nykyfor Bezkursky, that "treatment will be expensive" and when N. Bezkursky replied that he would spare no expense to cure his child, Stern offered to sell him a drug "which cannot be obtained anywhere except from him" because "it is not manufactured in the USSR." Having taken 25 rubles and then three kilograms of fish from N. Bezkursky's hands, [Stern] drove him in his own car to his apartment, from which he brought out a box of prefizon worth 2.30 rubles.

When Bezkursky brought his son some time later to Stern for an examination and told Stern that the treatment was not producing the proper results, Stern suggested to Bezkursky that they go to his apartment and promised to give him good drugs. Having taken from Bezkursky 7 rubles, which he snatched from Bezkursky's hands just as he had the previous time, Stern gave him ten tablets of thyroidin.

In this manner Stern swindled N. Bezkursky out of 32 rubles, for which he gave him prefizon worth 2.30 rubles and ten tablets of thyroidin, thus making a profit of 29.50 rubles.

BEZKURSKY: I was advised to go to Vinnytsia with my son Volodymyr. There was supposed to be a certain doctor there. I'm not a local man myself. I've been living in this region for only a short time. Well, this year it will be two or three years, I don't remember exactly. When I arrived, I didn't know where to go. So I asked for directions. Well, I

was given directions. There's a good doctor here, I said, and I'm going to this hospital. Well, I went into this hospital. When I was going there I knew that Stern was either the head doctor or something. Well, somebody said there's a good doctor in charge of the Outpatient Clinic. I asked his name, and they said Stern. Well, so it was Stern. That's how I learned that his name was Stern. Well, people can wait and wait in the corridor, you know, but I had to leave. I had brought along two kilograms of fish, you know. If I do something nice for the man, I thought, he'll do something nice for me. My son and I hadn't eaten anything. We thought the doctor would examine him first. We thought we'd take this fish along. He'd eat it the way it was. That's the idea I had. Well, after that Stern came out. That's when I met Dr. Stern, of course. It's like this and like this, I told him. Here's the situation I'm in. I've brought my boy along, and you should examine him.

JUDGE: In his office. And then?

BEZKURSKY: No, this was in the street. Not in the street, but in the hallway because there was a waiting line. About twenty minutes went by. Someone went in, someone came out—you know what clinics are like. Well, I went in to the doctor's office. Well, the doctor examined my son's sexual organs, looked him over, well, you know . . . promised me some drugs. "There's a certain drug that has to be taken," he said. He didn't tell me the price. I pulled out my money, comrades. It was a very strange situation. Someone walked by between us, some child. I took out the money. The boy ran by . . . the boy was ahead of us, then behind us. . . . That's how it happened. I didn't have time, of course . . . When I looked the money was gone. So there . . . That's how I think it happened. . . .

JUDGE: So you gave this money to Stern? And then what? How did you get the drug?

BEZKURSKY: I took out twenty-five rubles. Some boy was walking past me, and we were split up in such a way that he got all the money.

JUDGE: Was it Stern or the boy who took it from you?

BEZKURSKY: No, the boy. The point is that the boy walked past us. You understand. . . .

JUDGE: Stern took the twenty-five rubles. Yes?

BEZKURSKY: Well, this money, well, he obviously thought that I should give him this money, so there . . . or he didn't tell me that I should give him something or what.

JUDGE: Then how much money did the doctor take from you?

BEZKURSKY: Twenty-five rubles. Then we arrived, I stood waiting for a while. He brought out these brown ampules, ten of them, and said to

take one injection every twenty-four hours. That's what I did. . . . Two weeks went by, and when I looked at him he was the same as before, no change. The second time I left my son behind and went by myself. I went to Stern said, "It isn't helping one damn bit." Well, to sum it up, he promised another medication—pills and ampules. I took this medication, of course. The ampules were smaller. He didn't tell me this time either. It was seven rubles, and I payed that too. I left and didn't come back here. The boy is still fat the way he used to be. We'll see what happens later.

JUDGE: That means thirty-two rubles, yes? Twenty-five and seven, yes?

BEZKURSKY: Yes.

DEFENSE COUNSEL: What did he give you the first time, when you paid him twenty-five rubles?

BEZKURSKY: I've already said that he gave me ten vials of something brown, ten ampules. I said that.

DEFENSE COUNSEL: He gave you ten ampules. What is this drug called?

BEZKURSKY: I don't know.

DEFENSE COUNSEL: You started telling us today about another drug costing seven rubles.

BEZKURSKY: That's what I was given the second time. I don't remember that either. I was given powders—not powders, but tablets. They were brown, too.

STERN: I request the court to note that the witness does not remember the names of the drugs he received. The names concocted by Investigator Kravchenko in the indictment have absolutely no factual basis. As for drugs which are "not manufactured in the USSR," this phrase was also invented by the investigator, who feels an unexplainable revulsion to foreign drugs. I think that the investigator's interpretation of Bezkursky's testimony can only evoke a smile. I think that I could have restrained myself and not seized the twenty-five rubles from his hands, but waited until he gave me the money himself. I didn't take two rubles' worth of fish from him, and that wouldn't be such a great crime even if I had. As for the sum that he mentions, I don't remember what drugs I obtained for him and how much they cost. As for the country where these drugs are manufactured, the question should obviously be submitted to Investigator Kravchenko as an "expert."

JUDGE: Stern, the court can do without your irony. The session is closed. The court will re-convene at ten o'clock tomorrow.

At the close of the session Dr. Stern applies to the judge with a request to see his wife and sons, from whom he has been isolated for the six months since

his arrest. The request is refused, and the accused is returned to his jail cell immediately after the session.

THURSDAY, DECEMBER 12, 1974

Day Two of the Trial

The authorities do not prevent anyone from entering the courthouse on the second day of the trial. The militiamen and plainclothes agents have moved to a vestibule on the fourth floor, where the proceedings continue in a small room capable of holding about fifty people. Western correspondents who have applied for permission to attend the trial are not granted their request.

THE SOVIET VERSION OF THE FACTS

THE TRIAL IN VINNYTSIA

GIVE ALL THE MONEY YOU HAVE, DEMANDED STERN

By Boris Antonov, Novosti Press Agency Special Correspondent, Moscow

Eyewitnesses continued to be examined during the second day of the trial in Vinnytsia of Mikhail Stern, accused of swindling and extortion of bribes. Up to 500 (five hundred) people, including residents of the town and region, relatives and acquaintances of the defendant and journalists, were present in the courtroom. All witnesses without exception confirmed that Stern had engaged in swindling and bribe extortion.

“Stern took my last money,” witness P. Malishevsky complained to the court. He is the father of a sick child who was treated by Stern. “He gave me drugs—their price is 6 rubles 16 kopecks. I could collect 19 rubles and fumbled for more in my pockets. Stern then said: ‘Put on the desk what you have!’ I gave him my last five ruble note.”

The trial in Vinnytsia continues.

PLAINTIFF PETRO MALYSHEVSKY, BORN 1932, COLLECTIVE FARMER

MALYSHEVSKY: The doctors at the Military Board discovered an underdevelopment in my son Anatoliy, who was born in 1952, and referred him to Stern at the Clinic in Vinnytsia. He received us, examined my son, and said that he needed treatment. "If he needs it then he needs it," I said. He wrote out a prescription for me and gave me two vials of pills, pink and green ones, and injections. He explained how to take them and told us to come back in two weeks for a check-up. He said that it cost nineteen rubles all together. I gave him the money on the spot. I came again later to thank him. I left five rubles in his office without his seeing it. Two months went by. My son was summoned to the Military Board again and told that he was fit for the Army.

PROSECUTOR: Why did you give him five rubles?

MALYSHEVSKY: For receiving us well.

PROSECUTOR: But during the preliminary investigation, on case sheet 129, you explained this differently. Try to remember!

MALYSHEVSKY: That's what I told the investigator.

PROSECUTOR: But there's a discrepancy.

MALYSHEVSKY: I told the truth then, and I'm telling the truth now.

JUDGE (*reading the record of the preliminary investigation*): "He said that I would have to pay if I wanted my son to be in good health. I realized that he was asking for a bribe. Then we went into another room, where he gave me the medicine. I gave him nineteen rubles. He counted it up, threw it in his desk, and said, 'Put out whatever you have.' " So how was it, did he or did he not ask for money?

MALYSHEVSKY: No, he did not.

JUDGE: Did he say, "Put out whatever you have"?

MALYSHEVSKY: No, he did not.

STERN: Malyshevsky has testified that I gave him 19 rubles' worth of medication. The pharmaceutical expert examination reports that he was given drugs worth 19.85 rubles. So I can demand another 85 kopecks from him. Fortunately I don't suffer from Kravchenko's petty passion for counting pennies. The witness says that he left 5 rubles without my seeing it. But even if I had seen it, where's the deceit and swindling here? You won't find it here. You will find it in Kravchenko's shameless lie. He put in the witness's mouth words no one had ever said: "Put out whatever you have."

PLAINTIFF MARIA POLISHCHUK, BORN 1930, COLLECTIVE FARMER

FROM THE INDICTMENT:

While examining Serhiy Polishchuk on March 1, 1973 in the presence of his mother, Maria Polishchuk, [Stern] said to him, "Take off your pants and show us what you've got there." Drawing the mother's attention to her son's penis, he said that he was not developing like a man, but he would make a real man of him, only money was needed for expensive medicine.

Polishchuk asked him to treat her son and said that she would settle for the medicine later. When she came a second time with her son, Stern told her that the drugs were now available and that she only needed to pay him.

Inviting mother and son into his private Volga, Stern drove them to a pharmacy, demanded from Polishchuk 40 rubles, and told them to wait in the car while he went into the pharmacy, from which he soon emerged with many drugs and demanded from Polishchuk another 5 rubles, giving her drugs with a total worth of 13.78 rubles, thus turning 31.22 rubles, a rooster, and twenty eggs to his own use.

In this deceitful fashion Stern received from Polishchuk 31.22 rubles, a rooster, and twenty eggs.

POLISHCHUK: My son Serhiy, born in 1957, was referred to Vinnytsia by the medical commission at the Military Board. We arrived in March 1973.

We were received by a woman doctor. She referred us to Stern.

JUDGE: Were you received immediately?

POLISHCHUK: Yes, we waited a bit for our turn and then went in.

JUDGE: How did he examine him?

POLISHCHUK: He examined him in my presence. He prescribed injections. I didn't go to the pharmacy. I didn't have any money, and he said I wouldn't get this medicine anyway. He gave us his own. My son began to feel better and to improve. Later we came back. He went with us to a pharmacy, and I got the medicine. We gave him forty-five rubles.

JUDGE: Did he go into the pharmacy with you?

POLISHCHUK: First he went in by himself, and then I went in with him. When I went the third time, I brought him a score of eggs out of gratitude. He didn't want to take them, but I persuaded him to take them. I gave them for my son.

JUDGE: Where were the injections administered to him?

POLISHCHUK: The injections were given to him at the village first-aid post.

My son's in good health now. He's in school. The Military Board found him fit, and I am very pleased.

PROSECUTOR: With whom did you go to the pharmacy?

POLISHCHUK: With the doctor. I asked him to go to the pharmacy with us because I have trouble understanding things. He agreed and drove us in his car.

PROSECUTOR: When did you give him the money?

POLISHCHUK: In the pharmacy or outside the pharmacy, I don't remember which.

PROSECUTOR: Not in his office?

POLISHCHUK: No, not in his office. Later I gave him another five rubles.

PROSECUTOR: Why, for what?

POLISHCHUK: They added it up in the pharmacy, and there wasn't enough money.

PROSECUTOR: Did you receive all the medicine that you were sold?

POLISHCHUK: We received the injections and the packets, all according to the prescription he wrote out.

PROSECUTOR: Did you go to the city again?

POLISHCHUK: I went two more times.

PROSECUTOR: Did your son go again?

POLISHCHUK: I don't remember.

PROSECUTOR: Was he given treatment at the Dispensary in Vinnytsia?

POLISHCHUK: He was given injections. Stern prescribed them.

PROSECUTOR: How many times?

POLISHCHUK: We came three times.

PROSECUTOR: Who gave the injections?

POLISHCHUK: A woman in another office all three times, I think.

PROSECUTOR: Why aren't these injections recorded?

POLISHCHUK: I don't know. I didn't have anything to do with that.

DEFENSE COUNSEL: Who prescribed these injections?

POLISHCHUK: Stern.

DEFENSE COUNSEL: Was it easy to get to see him?

POLISHCHUK: Yes, we just waited for our turn a bit.

DEFENSE COUNSEL: Did anyone waiting with you say that the doctor had to be given money?

POLISHCHUK: No, they only said that he's a good doctor.

DEFENSE COUNSEL: Did he ask you to give him money?

POLISHCHUK: God forbid, no!

STERN: Did you give me money the first time you came?

POLISHCHUK: No.

STERN: In other words, the first time I gave you the ampules free of charge, without money?

POLISHCHUK: Yes.

PLAINTIFF SAVA KOROL, BORN 1923

FROM THE INDICTMENT:

On February 15, 1973, while examining Mykola Korol in the presence of his father Sava Korol, Stern asked the latter whether he had any money, and when Korol replied that he had thirty rubles with him, [Stern] demanded that he be given twenty-five rubles.

KOROL: My son Mykola was referred to Stern by the Military Board. Stern examined him and said that he would treat him. He said the medicine was expensive. I gave him twenty-five rubles. Stern gave the money back to me, and I went to the pharmacy. I bought the drugs there and brought them to Stern.

JUDGE: What were the drugs called?

KOROL: The writing wasn't in Russian.

PROSECUTOR: You said that you gave Dr. Stern twenty-five rubles. Does this mean that he picked up the money?

KOROL: He did. Then he put it aside and wrote out a prescription. . . .

PROSECUTOR: Then he wrote out a prescription. All right. . . . Then he gave it to you and you went to a pharmacy.

KOROL: To the pharmacy up on the hill.

PROSECUTOR: Did he give you some sort of . . . some sort of object for you to put the drugs in, or what did he give you?

KOROL: I had a string bag.

PROSECUTOR: You had a string bag, so you put them in the string bag. And how many drugs did you get?

KOROL: I don't remember now.

PROSECUTOR: Well, approximately what shape did they have?

KOROL: Well, it wasn't very much, about the size of a loaf of bread, a kilogram or maybe a kilogram and a half.

PROSECUTOR: About the size of a loaf of bread. All right, now tell us—who did you give this medicine to?

KOROL: To my son for injections.

PROSECUTOR: No, the medicine you got at the pharmacy the first time.

KOROL: Oh, I brought that back to the doctor.

PROSECUTOR: How many and what kind of drugs did you receive from the doctor?

KOROL: Well, the doctor issued two packets of some sort of drugs, I don't know exactly what they were, and a vial of pills.

PROSECUTOR: They were pills. All right, now answer the following question: when and with what money did you obtain this medicine?

KOROL: With my own money.

PROSECUTOR: I asked what money. Where did you get the money?

KOROL: I gave this money to Stern, twenty-five rubles. He gave it back to me and said, "Go." He gave me a prescription and said, "Go get these drugs at the pharmacy."

PROSECUTOR: Let's clear up the following question now. How much money did you pay at the pharmacy for the medicine?

KOROL: Twenty-five rubles.

PROSECUTOR: All twenty-five rubles and not more?

KOROL: No, I didn't have any more.

PROSECUTOR: No, you gave this money to the doctor. Did the doctor give you the money to pay for the medicine?

KOROL: Yes.

JUDGE (*to STERN*): Accused, why are you standing?

STERN: I have a pain in the spine.

JUDGE: Well . . .

PROSECUTOR: So here's the question. How much money did the doctor give you to pay for the medicine?

KOROL: Well, he gave me those twenty-five rubles.

JUDGE: His answer was: he returned the money to me.

PROSECUTOR: So how much did he return?

KOROL: All twenty-five rubles.

PROSECUTOR: Twenty-five rubles, no more and no less?

KOROL: No.

PROSECUTOR: The reason I'm posing this question, comrade judges, is that the witness stated that . . .

JUDGE: Yes, yes, he stated that he received from Stern not twenty-five rubles, as he states now, but thirty rubles.

KOROL: That was the second time. Well, I brought everything to Stern and he said, "They've cheated again and not given you everything they should have." He gave me thirty rubles and said, "Go to the pharmacy with the prescription." That is, I bought medicine for fifty-five rubles, of which twenty-five were mine and thirty were the doctor's.

PROSECUTOR (*irritated*): Briefly, you saw him two times. This means that you obtained medicine on a prescription with money you gave and then

on a prescription which the doctor wrote out and with money he handed you.

KOROL: Yes.

DEFENSE COUNSEL: Stern didn't send you away, he received you immediately?

KOROL: Not immediately, of course. There were other people there.

DEFENSE COUNSEL: Now when you were waiting for your turn, did anyone there say that the doctor had to be given money?

KOROL: Nobody did. Nobody mentioned money.

STERN: Well, how is your son now? Is he in good health?

KOROL: Yes, he's studying to be a machine operator.

STERN: Do you have any claims against me?

KOROL: No.

PLAINTIFF MARIA PRYBIHA, BORN 1919, COLLECTIVE FARMER

FROM THE INDICTMENT:

In April and May 1972 Stern received Andriy Prybiha, born in 1955, gave him medical assistance, and then proposed that the treatment be continued at his home. Having consumed in the treatment two boxes of sustanon worth 8.70 rubles, [Stern] received from the patient's mother, Maria Prybiha, 20 eggs and 50 rubles, turning 20 eggs and 41.30 rubles to his own use and complaining that this was not enough.

PRYBIHA: My son Andriy was born in 1955. He was referred to Vinnytsia by the Military Board. First he went by himself, then the doctor said to him, "Come back with your mother." We went. He undressed him in front of me. I saw what he had there and began to cry.

JUDGE: Did he examine him before you came?

PRYBIHA: I don't know. The doctor said, "Don't worry, everything will be all right. He'll have to be treated, but the situation with drugs is bad. And they're expensive too." He gave him the first injection right on the spot, and he gave him all the rest himself. I gave him fifty rubles. My son was greatly helped by the treatment, and we stopped going.

JUDGE: Did he say anything to you when you gave him the money?

PRYBIHA: He didn't say anything.

PROSECUTOR: How many times did you visit him?

PRYBIHA: Once. Then my son went by himself.

PROSECUTOR: And how many times did your son go without you?

PRYBIHA: Many times.

PROSECUTOR: And where was he given the injections?

PRYBIHA: I don't remember exactly.

DEFENSE COUNSEL: Did you or your son purchase anything at a pharmacy?

PRYBIHA: No.

DEFENSE COUNSEL: Did you give your son money?

PRYBIHA: No, I didn't.

DEFENSE COUNSEL: Are you satisfied with the results of the treatment?

PRYBIHA: Yes, very.

STERN: Try to remember, didn't your son come to me for injections at my home on Sundays so that he wouldn't miss school?

JUDGE: That's a leading question. The court strikes the question.

WITNESS ANDRIY PRYBIHA

PRYBIHA: The Military Board referred me for an examination in 1972. My mother and I went to Vinnytsia, registered, and got to see Stern. He examined me and said that I needed treatment. He prescribed treatment and gave me the first injection in his office. He told me to come for treatment. I said that I couldn't miss school, and then he told me to come see him at home on Sundays. Later I went to see him at home with my mother.

PROSECUTOR: Did your mother give him anything?

PRYBIHA: My mother gave him money.

PROSECUTOR: How much?

PRYBIHA: I don't know. I went to see him several times. Then my father became ill and I stopped seeing him.

PROSECUTOR: Did the doctor say anything when your mother gave him money?

PRYBIHA: No.

DEFENSE COUNSEL: How many times did you visit him at home?

PRYBIHA: I went for two months—eight times in all.

STERN: Are you in good health?

PRYBIHA: Yes.

STERN: Do you have any claims against me?

PRYBIHA: No, I'm grateful to you.

STERN: As far as I can remember, his mother came to see me at home and gave me fifty rubles. This is a clear-cut case of private practice. Her son is in good health. He hasn't been poisoned by the treatment. He has no complaints. Where's the crime here?

After a recess.

STERN: I request the court's permission to submit a petition.

JUDGE: Granted.

STERN: First, the indictment states that I created conditions in which people had to wait for three days to see me and that I took bribes for seeing them out of turn. I request that the receptionist at the Health Center be called as a witness for the defense. Let her explain how admissions are handled. Everybody who wanted to see me was admitted and got to see me on the first request.

Second, yesterday the court permitted me to receive dietetic food. But the guards did not let it through. According to the law I am in the court's jurisdiction. I am fifty-six years old and very ill. I know this as a doctor. You can see that I've been standing all the time. I can't sit because of the pain in my back. The trial is a tremendous physical and nervous burden for me. I request that the guards in the courtroom give me, during the recesses, the food parcels I receive from home.

Third, although the presiding judge has been excessively interrupting me today and I realize that I am foolish to incite him against me on a purely personal level, I still request permission to read my statement of protest. (*Raising his voice.*) I state a decisive protest against the impermissible and, to my mind, illegal methods of interrogating witnesses used by Prosecutor Kryvoruchko. I am particularly outraged by the interrogation on December 11 of Mykhailo Sushko, a witness for the prosecution. For half an hour the prosecutor subjected the witness to a real psychological torture, as . . .

JUDGE: Lower your voice, lower your voice! By the way, the court knows for a fact that the trial was being recorded yesterday. We can't understand what the purpose of this is. The person knows who we're talking about, knows who was recording. No one has the right to record the trial—no one, not just this person. Even the prosecutor, if he wants to record the trial, can do so only with the court's permission. It seems to me that the accused Stern is speaking loudly and addressing the courtroom. He seems to know about this. So there it is. . . . I know it for a fact. If you want me to bring this person up, I'll do so at once.

STERN: I don't understand. . . .

JUDGE: I don't think that anyone should . . . Don't think that the court is imagining this.

STERN: I request . . .

JUDGE: Give me your petition.

STERN: But I request . . .

JUDGE: Give me this . . .

STERN: Just a second . . .

JUDGE: Give it to me, I'll read it myself.

STERN: Please.

JUDGE: Give it to me!

STERN: But I request . . .

JUDGE: Give it to me (*Tears the statement from Stern's hands.*)

STERN: . . . the presiding judge not to base his statements regarding the accused on "apparently" and "possibly."

JUDGE: Do you want me immediately to bring up the person who . . .

STERN: No, I want to say that I didn't know about this.

JUDGE: But no one is accusing you of this.

STERN: You just said so yourself.

JUDGE: Yes, I reprimanded you yesterday about directing your testimony there—to the audience. You should direct it here, to the court, not to the public. (*Silently reads the statement.*) What is the opinion of the parties?

PROSECUTOR: I believe that the question of summoning the witness should be decided in the further course of the proceedings. I leave the rest to the court's discretion.

DEFENSE COUNSEL: The Criminal Procedure Code does not mention petitions which should be decided in the course of the trial. Not a single article of the Code makes provisions for this. I believe that according to the law all petitions must be decided at the time they are submitted. The question of rations is not covered by the Criminal Procedure Code. Possibly there are some secret directives that I don't know about. But I request the court to take my client's condition into consideration and to take measures so that the produce is delivered to him.

JUDGE: You can see for yourself that we have nothing against that. But this question is not within our competence.

PROSECUTOR: The court has no right to interfere in matters which are within the jurisdiction of the organs of internal affairs.

STERN: I'm being tried by a Soviet court, not a Chilean junta!

JUDGE: Silence! The court forbids you to compare us to the junta. The session is adjourned. Recess!

After a brief recess.

JUDGE: Four victims are absent. We'll try to have them here tomorrow. Are there any objections?

PROSECUTOR and DEFENSE COUNSEL have no objections.

JUDGE: There is still the question of the expert examination. The expert should be in the courtroom and should hear the witnesses' testimony. However, we need an expert opinion in only one episode. What are the opinions of the parties to the trial?

OLNEV: I request that a new commission of experts be convoked. Expert Kuchuk has departed, and Koliada, the other expert who was working with us on the investigation, died in an automobile accident. I think that we need a new commission. As for Dr. Kuperman, whom Stern suggested, let the court decide that.

PROSECUTOR: I have no objections to summoning a commission of experts.

DEFENSE COUNSEL: I have no objections to summoning a commission and propose that it include Dr. Kuperman as well as Dr. Olnev.

PROSECUTOR (*smiling*): During the investigation Stern frequently asked that experts from Kiev be invited. I think that this request of his should be taken into consideration.

DEFENSE COUNSEL: It seems to me that there's no need for us to wait a long time until experts from Kiev arrive when we have Dr. Kuperman, an excellent endocrinologist, at hand.

STERN: I believe that a commission of experts is not needed at all. But since the prosecutor insists, I suppose that it's unavoidable. In view of this I request that two points be considered. First, I categorically object to the participation of any staff members of the Vinnytsia Medical Institute since they are all directly subordinated to Professor Zelinsky, my personal enemy, who has in large measure inspired this trial and who feels a profound hatred toward my nationality. Professor Zelinsky is the Pro-rector of the Medical Institute. Second, Dr. Kuperman is completely neutral. I don't know him very well. He is the only doctor in Vinnytsia who has a candidate's degree in endocrinology. He is employed at a neutral institution, and I am counting on his objectivity. I have nothing against Olnev, and I think that he and Kuperman will render an objective finding. Hence I request that the commission be limited to these two comrades.

OLNEV: May I remind you that a panel of experts must consist of no less than three members.

JUDGE: Having conferred on the spot, the court has ruled to convoke a commission of experts consisting of Dr. Olnev, Dr. Kuperman, physician at the railroad hospital, Professor Yefimov, Department Chairman at the Kiev Endocrinological Institute, and Dr. Petro Andrienko from the Vinnytsia Medical Institute.

STERN: Where is Andrienko from?

JUDGE: From the Medical Institute. Believe me, he's not an anti-Semite, as you put it.

The court is adjourned.

After the first day of the trial, a rumor sweeps the city that anyone sufficiently persistent will be able to enter the courtroom. People begin to gather from all ends of the city for the evening session on December 12. They behave in an unnatural way, as if afraid that their interest in the Stern trial may appear politically suspicious. In fact, information about the trial can be obtained only from foreign radio broadcasts. The Soviet media maintain a deathly silence. The people's unnatural behavior lulls the vigilance of the militiamen, who open the door unaware of the impending danger. As the crowd surges forward into the courtroom, it sweeps up everyone in its path, including militiamen, plainclothes agents and the judge, who happens to be walking by. There's a jam at the door. "Stop!" shouts the judge hoarsely from the center of the crowd, "Stop this immediately! Stop it!" The jam is broken up only after an additional detail of militiamen has been called in. With rumpled clothes and thoroughly angry, the judge postpones the evening session until the next morning without occupying his place of honor.

FRIDAY, DECEMBER 13, 1974

Day Three of the Trial

Before the morning session opens a conflict breaks out between Victor Stern and some young people who have got into the courtroom long before the public is permitted to enter. The chief of the guard detail states that they are law students. Entering the courtroom just as the argument is starting, the judge evicts Victor Stern from the court, and he does not return until the recess. Those present in the courtroom are struck by the sharply decreased number of seats available.

JUDGE: I have to inform you that as of today standing will not be permitted in the courtroom. Anyone who does not have a seat will have to leave!

A VOICE FROM THE COURTROOM (*ironically*): Can we bring our own?

JUDGE (*not hearing the remark*): We begin with an examination of the Beznosiuk episode.

FROM THE INDICTMENT:

While examining the patient Vasyl Beznosiuk in the presence of his mother, Vira Beznosiuk, in December 1971, Stern suggested that they come back the next day for a "psychotherapeutic conversation," although such a conversation could have been held that same day. While conducting the "psychotherapeutic conversation," Stern told the patient's mother that "foreign injections" were needed for Vasyl's treatment and that they would have to be administered in two weeks. Beznosiuk paid Stern 10 rubles for this "injection" and then in a similar fashion gave him another 10 rubles. Having used up in Vasyl's treatment one box of sustanon worth 4.35 rubles, Stern pocketed in this manner a profit of 15.65 rubles.

PLAINTIFF VIRA BEZNOSIUK, BORN 1935, COLLECTIVE FARMER

BEZNOSIUK: I have a son Vasyl, who was born in 1958. He was referred to Vinnytsia by the Military Board in 1972. We were sent to Stern. He prescribed powders and injections. I came back the next day and then again two weeks later with my son for the injection. When I went to see him the second time, I slipped ten rubles into his pocket out of gratitude. I don't know whether he noticed or not.

JUDGE: Where did this take place?

BEZNOSIUK: In his office?

JUDGE: Were you at his apartment?

BEZNOSIUK: I don't know where he lives.

JUDGE: How does your son feel now?

BEZNOSIUK: He's in good health.

JUDGE: Was he examined again by the Military Board?

BEZNOSIUK: Yes, he passed two medicals.

PROSECUTOR: You came in March?

BEZNOSIUK: Yes, that's when I gave him the ten rubles. But he didn't see it. I slipped it into the pocket of his coat, which was hanging up. He didn't notice.

PROSECUTOR: Does it make any difference whether he noticed or not?

BEZNOSIUK: Of course it makes a difference.

PROSECUTOR: Where was your son treated?

BEZNOSIUK: He took pills at home and got injections at our hospital. He took one drug in Vinnytsia. One injection every two weeks.

PROSECUTOR: Where did you get this medicine?

BEZNOSIUK: At Pharmacy No. 9 and at the pharmacy at home.

PROSECUTOR: What injections did he receive from Stern?

BEZNOSIUK: One Dutch injection.

PROSECUTOR: How do you know?

BEZNOSIUK: He showed me the jar.

PROSECUTOR: Where did this happen?

BEZNOSIUK: At his office.

PROSECUTOR: Where did he get it?

BEZNOSIUK: I don't know.

PROSECUTOR: How many times did your son visit him?

BEZNOSIUK: I don't remember. It went on for a long time.

PROSECUTOR: Was the Dutch injection given in your presence?

BEZNOSIUK: No, in another office.

PROSECUTOR: Who administered the injections to your son?

BEZNOSIUK: Stern did one time. I don't know about the others.

DEFENSE COUNSEL: Did Stern receive you immediately when you arrived?

BEZNOSIUK: We had to wait for our turn.

DEFENSE COUNSEL: While you were waiting for your turn, was there any talk that the doctor had to be paid?

BEZNOSIUK: No, nobody said anything of the sort.

DEFENSE COUNSEL: Who told you that you should leave ten rubles?

BEZNOSIUK: I decided on my own.

DEFENSE COUNSEL: Do you have any claims against Stern?

BEZNOSIUK: I have no claims against the doctor. I am grateful to him.

WITNESS VASYL BEZNOSIUK, BORN 1958, SCHOOLBOY

JUDGE: I expect that you'll tell us the whole truth. You're a Komsomol member and should speak the truth.¹⁴

BEZNOSIUK: The Military Board sent me to Vinnytsia. We arrived, applied at the admissions desk, were sent for tests, and then to Dr. Stern. He received us very nicely. I was with my mother. He undressed me, examined me, gave me an injection, wrote out medication, and said that I'd have to continue treatment at home.

JUDGE: Where did you buy the drugs?

BEZNOSIUK: We bought the drugs at the pharmacy and then went back to Stern.

JUDGE: What medication did he prescribe for you?

BEZNOSIUK: Choreogonin, apilac and insulin, I think. Fifteen days later we came back. He gave me another injection and said there was improvement.

JUDGE: How many injections did he give you in all?

BEZNOSIUK: The doctor himself gave me two injections, and then a woman at the Health Center gave me the others. I came back later, but the doctor was on leave and a woman gave me the injection.

JUDGE: Do you think that the treatment helped you or not?

BEZNOSIUK: Yes, it did.

PROSECUTOR: Did you pay at the pharmacy?

BEZNOSIUK: Yes, my mother paid.

PROSECUTOR: What about the injections the doctor gave? Did you pay for them?

BEZNOSIUK: No.

PROSECUTOR: Did your mother pay for them?

BEZNOSIUK: I don't know.

PROSECUTOR: What sort of injections did he give you?

BEZNOSIUK: Some sort of foreign drug. Dutch, I think.

PROSECUTOR: When did you come the first time?

BEZNOSIUK: On the twentieth.

PROSECUTOR: What did the doctor do?

BEZNOSIUK: He ran a test and gave me the first injection.

PROSECUTOR: Did you come again?

BEZNOSIUK: Yes, two days later.

PROSECUTOR: According to your chart, you came for a second visit on the twenty-first. Why did you come a second time?

BEZNOSIUK: He told me that time what drugs to take at home.

PROSECUTOR: Was there talk about drugs the first time?

BEZNOSIUK: I don't remember.

PROSECUTOR: You went with your mother the first time?

BEZNOSIUK: Yes.

PROSECUTOR: Who told you to come a second time?

BEZNOSIUK: He did.

PROSECUTOR: When was the prescription written out?

BEZNOSIUK: The first time.

PROSECUTOR: What happened the second time?

BEZNOSIUK: I don't remember.

PROSECUTOR: A question to Stern. What was the need to summon the patient a second time? After all, he came with his mother the first time. You've written down "psychotherapy" for the second visit in the chart.

STERN: I've already said that I believe you have to treat the patient and not his disease. I can't remember this incident, of course—one out of seventy-five thousand patients whom I examined during this period. Judging by the chart, the patient came the day after he was given his first injection. I had to know the reaction of the organism in order to adjust the dosage. I had to know what the patient's reaction was to the injection of combined hormones, whether there were any unpleasant sensations. (*Exchanging gestures with the JUDGE, the PROSECUTOR does not notice that STERN has finished answering.*) Would the witness tell me, are you in good health now?

BEZNOSIUK: I am.

STERN: Do you have any claims against me?

BEZNOSIUK: No, none.

PLAINTIFF DMYTRO POLISHCHUK, BORN 1935, COLLECTIVE FARMER

FROM THE INDICTMENT:

Dmytro Polishchuk was returning from the pharmacy to the Health Center to tell Stern that the pharmacy had no insulin when he met Stern. The latter took a packet of insulin worth two rubles from his briefcase and said that the drug cost twenty-five rubles. Having obtained this sum from Polishchuk, Stern in this manner took possession of twenty-three rubles belonging to Polishchuk.

POLISHCHUK: My son Ivan was born in 1958. He was referred to Vinnytsia by the Military Board. We were received by Stern. He examined him and told us to come back the next day for the medicine. I asked how much money I should bring. "About twenty rubles," he said. I came the second time. He examined my son, wrote out a prescription and sent us to get the medicine. We went to the pharmacy, but they didn't have everything. Then we went back, and he gave us the medicine.

JUDGE: How much money did you spend in all?

POLISHCHUK: All I had with me was twenty-five rubles.

JUDGE: Who gave you the unavailable medicine?

POLISHCHUK: The doctor.

JUDGE: How much did you pay him for it?

POLISHCHUK: I don't remember, fifteen or twenty rubles. I'm grateful to him for curing my son. I have no claims against him.

PROSECUTOR: How much money did you take with you when you went the second time?

POLISHCHUK: Twenty-five rubles.

PROSECUTOR: During the investigation—volume 2, case sheet 99—you testified that you took forty-five rubles with you.

POLISHCHUK: I took twenty-five, not forty-five.

PROSECUTOR: Then why did you say at the investigation that you took forty-five?

POLISHCHUK: That can't be. I never said that.

PROSECUTOR: What drugs did you not obtain at the pharmacy?

POLISHCHUK: I don't know. I can't read very well.

PROSECUTOR: Where did you meet Stern after you went to the pharmacy?

POLISHCHUK: I met him on the way back from the pharmacy. I told him that one drug wasn't available. He gave me a packet of injections. He had them with him in his briefcase.

PROSECUTOR: When did you pay him?

POLISHCHUK: Right then.

PROSECUTOR: Did you ask him how much you had to pay?

POLISHCHUK: No, I didn't ask. I gave him the money myself.

PROSECUTOR (*raising his voice*): But what did you say during the investigation?

POLISHCHUK (*frightened*): That's exactly what I said.

PROSECUTOR: Well, read it. (*Hands him the case file.*)

POLISHCHUK (*after a long pause*): It will take me all day to read this. I can't read very well.

JUDGE (*reading*): "He took a box out of his briefcase, handed it to me, and said, 'Give me twenty-five rubles.' " Is this right?

POLISHCHUK: If that's what's written there, then it must be right.

PROSECUTOR: We have his statement on case sheet 182 of volume 3. Who wrote this statement?

POLISHCHUK: The secretary of the village council.

PROSECUTOR: And who signed it?

POLISHCHUK: I did.

PROSECUTOR: And what did the secretary write?

POLISHCHUK: I don't know.

PROSECUTOR: Read it, please. (*Hands him the case file.*)

POLISHCHUK: I can't.

JUDGE *reads a statement to the Provincial Prosecutor's Office about a civil suit for twenty-five rubles.*

PROSECUTOR: So how much did you pay him?

POLISHCHUK: Twenty-five rubles in all, to him and to the pharmacy.

DEFENSE COUNSEL: How did the secretary of the village council happen to be present while you were being interrogated?

POLISHCHUK: The prosecutor called him in. He told me to write a statement and called in the secretary.

DEFENSE COUNCIL: Where was this?

POLISHCHUK: At the village council office.

DEFENSE COUNSEL: And the interrogation took place there too?

POLISHCHUK: Yes.

DEFENSE COUNSEL: Not at the Prosecutor's Office?

POLISHCHUK: No.

DEFENSE COUNSEL: How does your son feel?

POLISHCHUK: He's in good health, going to tenth grade.

STERN (*to POLISHCHUK*): Does the witness know that he has the right to retract testimony given during the preliminary investigation?

JUDGE: The court strikes the question.

STERN (*to the JUDGE*): Testimony which is in fact not his but written by the secretary of the village council, which he merely signed and can't even read here. This case is just as scandalous as the confusion with witness Sushko.

JUDGE: The court will recess.

After the recess.

STERN: I request permission to submit a petition.

JUDGE: Go ahead.

STERN: I have nothing personally against Professor Andrienko. But I vehemently protest against his participation in the expert examination as a representative of the Vinnytsia Medical Institute. Three members are fully sufficient for an expert commission. I request the court not to include him in the commission. Second. As far as I understand, our trial should be open to the public. This morning there were people sitting in the courtroom whom I saw the guards admitting long before the rest of the public. In the conflict that broke out my son was evicted. I request that my son be permitted to attend the trial.

JUDGE: Regarding Andrienko, the court has already made a decision about the panel. We are granting all your petitions except this one. As for the second statement, your son and also your wife could have been completely barred from the courtroom and subpoenaed as witnesses. But we did not do this because they are your relatives. The court made an exception and permitted them to enter. If we choose to, we can bar them completely. He was given the opportunity to pick any seat, but for some

reason he insisted on sitting in the first row, which was already occupied. And then generally. You have been bothering me for three days now with your dietetic rations. Today you submitted another petition. (*Turning to the audience.*) I do not have the right to permit him to receive rations. I don't know why certain people were here. We'll figure this out. We shall permit your son to come in, but if he continues to behave as he did before, he'll be evicted again.

DEFENSE COUNSEL: I should like to express my opinion regarding your observation that the court has adopted a decision about the panel of experts. You did in fact list all the members yesterday. At the same time they have not been properly examined yet and hence are not regarded as experts according to the law. Stern has the right to challenge experts. Thus it seems to me that your explanation that the court has already adopted a decision does not correspond to Article 197 of the Criminal Procedure Code of the Ukrainian SSR.¹⁵ As for the conflict and the eviction of Victor, a certain part of the public really does enjoy special privileges. We have an open trial, and where entry to the courtroom is concerned, everyone should be equal. I request that this be looked into.

JUDGE: The court promises to look into this. They were admitted without the court's knowledge. This will be corrected in the future. As for the challenge to the experts, it is premature to discuss this point now. All in due course. I want to state to the people who are sitting here and whose task it is to distort everything that happens here. And we are convinced of this. An unhealthy hullabaloo is being created around this case. Someone wants to prevent us . . . uh . . . I want to state that we are trying to look into everything and to do this objectively. Everything will be done according to the law. All the parties are concerned about establishing whether Stern is guilty or not. The court will recess for fifteen minutes.

After the recess.

JUDGE: We are continuing with our hearing. The expert from Kiev will arrive at two o'clock. Until then we shall begin examining witnesses in episodes not connected with the panel of experts. Witness Rybachuk, please step forward!

A corpulent woman dressed in typical peasant clothes gets up from a seat in the first row and, trying not to look at the people around her, takes her place on the stand.

THE RYBACHUK-MANZHIEVSKY INCIDENT

STATEMENT OF RELEASE

May 3, 1972

We, the children of the late Karolina Liubetsky, who died at the hospital in Vinnytsia, daughter L. Manzhievsky, son-in-law S. Manzhievsky, daughter S. Rybachuk, and son-in-law P. Rybachuk, do hereby declare that we did not offer any bribes to anyone when our mother was received for treatment by Dr. Stern and also that we did not complain to anyone or demand any money after the death of Karolina Liubetsky when we took the body away on April 29, 1972. We can refute all false testimony against us in a People's Court.

Signatures:

Leonida Manzhievsky

Sigismund Manzhievsky

Stanislava Rybachuk

Petro Rybachuk

FROM THE INDICTMENT:

On April 20, 1972 L. Manzhievsky and S. Rybachuk turned to Stern with a request to hospitalize their mother K. Liubetsky, who was suffering from a severe form of diabetes and other diseases. On the pretext that there was no spare bed in the hospital, Stern refused for a long time to issue an order for hospitalization and sent her to be hospitalized only after he received twenty-five rubles from S. Rybachuk.

WITNESS STANISLAVA RYBACHUK, COLLECTIVE FARMER,
DEPUTY OF A VILLAGE COUNCIL

RYBACHUK: My mother was a diabetic. In 1972, just before the May holidays, she became worse. We went to Vinnytsia and were directed to the doctor's office. I went in. The doctor was sitting there. Well, we began to beg him to have our mother examined as an in-patient. He said that he couldn't hospitalize her because it was difficult, there weren't any spare beds. Well, we began to beg him to hospitalize her. Then I committed what was obviously a crime. I placed twenty-five rubles under a piece of paper on his desk. I don't know whether he saw me put it there or not. Well, he chatted a bit more with us, how my family was and so forth, and then told us to go out. Then he came out and referred

mother for hospitalization. I took mother to the hospital, left Vinnytsia, and didn't come back. A week later we took mother away, buried her, and that's all.

JUDGE: Who else was with you?

RYBACHUK: My sister, Leonida Manzhievsky.

JUDGE: Was she present when you put down the money?

RYBACHUK: Yes, she was.

PROSECUTOR: Why was the money placed under the paper?

RYBACHUK: I was embarrassed to put it in his hand.

PROSECUTOR: Was your mother hospitalized immediately?

RYBACHUK: Immediately.

PROSECUTOR: Without any impediments, or were there complications?

RYBACHUK: Well, what sort of complications could there have been? After we gave them the referral there was no difficulty at all.

PROSECUTOR: Was she in a ward, or don't you know where she was?

RYBACHUK: I don't know. I didn't go back to Vinnytsia.

PROSECUTOR: You said that your sister was present when you gave the money?

RYBACHUK: Yes.

PROSECUTOR: She saw that you . . .

RYBACHUK: She saw. She didn't know how much, but I told her in the corridor that I had given twenty-five rubles.

PROSECUTOR: What did you give the money for?

RYBACHUK: Because I was trying to save my mother's life. I wanted the doctors to help her.

PROSECUTOR: Why didn't you obtain a referral?

RYBACHUK: Because we weren't given one.

PROSECUTOR: You weren't given a referral. Why weren't you given a referral?

RYBACHUK: I don't know. I asked for a referral.

JUDGE: I present a disclaimer that she did not give this money. Are you familiar with this document?

RYBACHUK: I am.

JUDGE: Explain what this statement means.

RYBACHUK (*waving her arms about*): When my mother died, I was in a frightful state. I was deranged. My sister came running to me and said that some woman had arrived. She didn't know this woman, she said, and we both thought she was a doctor. The woman said that the doctor had asked us to give him a statement certifying that we had nothing against him. And so we, I don't remember what I wrote then, how I

wrote, but we didn't know that the organs would become concerned with this case.

JUDGE: Whose handwriting is the statement in?

RYBACHUK: My sister's.

JUDGE: Well now, where's the truth then? In the statement or in what you're saying now?

RYBACHUK: What's written there is not true, but what I'm saying is true. You see, I didn't know that the organs would take an interest in this.

DEFENSE COUNSEL: Did your sister see you put the money down?

RYBACHUK: She did, but she didn't know how much it was.

DEFENSE COUNSEL: Did Stern see you put the money down?

RYBACHUK: I don't know whether Stern saw. I put it under the paper quietly.

DEFENSE COUNSEL: The case file contains your testimony: "I cannot say whether Stern saw me put the money under the paper, but he did not remove the money from under the paper while we were there." Is this true?

RYBACHUK: It is.

STERN: Did I examine your mother?

RYBACHUK: No, you didn't.

STERN: Did anyone in the Outpatient Clinic examine her?

RYBACHUK: She went to another office.

STERN: Can you tell us who went to see the head physician—your husband or your sister's husband, who went?

RYBACHUK: Some woman came, asked us to give an explanation that we had no claims after mother died. So we wrote it.

JUDGE: Did anybody or any of your close relatives deliver this statement?

RYBACHUK: No, we didn't deliver it. Some woman who came from Stern took the statement away. That's all.

JUDGE: And then she left?

RYBACHUK: She left, and we stayed at home.

DEFENSE COUNSEL: Now when you went to see Dr. Stern and asked him to hospitalize your mother and he said that he couldn't, what else did you ask for? Do you remember or don't you?

RYBACHUK: I don't remember.

DEFENSE COUNSEL: Then let me remind you. Here's an entry: "Then I began to ask him to order a test for sugar." Would you tell me, please, was a test for sugar given?

RYBACHUK: But I wasn't there, was I?

DEFENSE COUNSEL: But you spoke to him, didn't you?

RYBACHUK: I suppose it was given. When my mother was referred, if she was hospitalized, then she must have been given the test.

DEFENSE COUNSEL: Did he, Stern, refer you to have the tests?

RYBACHUK: I don't remember.

DEFENSE COUNSEL: Because in your testimony you stated: "Then Stern came out with a referral for a test. The test was given, and she was admitted to the hospital." That's what is written in your testimony.

RYBACHUK: Well then, that's how it was. What else?

DEFENSE COUNSEL: That's how it was. Now tell me, please. When the test was given, do you remember whether your mother had a high sugar level?

RYBACHUK: I don't remember.

JUDGE (*unexpectedly*): The court will recess.

After the recess.

WITNESS LEONIDA MANZHIEVSKY, AGE THIRTY-SEVEN, COLLECTIVE FARMER

MANZHIEVSKY: My mother was a diabetic. Well, we heard . . . my sister heard that there was a certain doctor in Vinnytsia, that he could cure such diseases, and so we decided to take her for treatment. Well, we took her to Stern in Vinnytsia. Well, we went in to see him. My sister was near him, and I was near mother. I saw that she put something there for him, but I didn't know what it was. Later I asked her, and she said that she had given him twenty-five rubles so that he would treat mother. Mother lived for another week and then died.

JUDGE: Where was she that week?

MANZHIEVSKY: At the hospital. We put her in the hospital. She stayed there a week and then died. Well, mother died, and we took her away to be buried. That's all.

PROSECUTOR: Did you take your mother to the Health Center with or without a referral?

MANZHIEVSKY: Without a referral.

PROSECUTOR: Without a referral. Why without a referral?

MANZHIEVSKY: We weren't given a referral at the regional hospital.

PROSECUTOR: Who did you apply to in Vinnytsia?

MANZHIEVSKY: We went to see Stern.

PROSECUTOR: You went straight to Stern. Who did you go with, who went?

MANZHIEVSKY: My mother, my sister, and I.

PROSECUTOR: What did you ask of Stern?

MANZHIEVSKY: We told the doctor that mother was very ill, and we asked him to put her in the hospital and treat her.

PROSECUTOR: Next question. What was Stern's attitude toward your request?

MANZHIEVSKY: He said there were no spare beds, but she had to be hospitalized. "There are no beds, but I'll write you a referral."

PROSECUTOR: What else happened?

MANZHIEVSKY: I saw my sister put money under a piece of paper on the desk. Later she told me that it was twenty-five rubles.

PROSECUTOR: When you were taking your mother away after she died, who went?

MANZHIEVSKY: I went the next day. It was just before the holiday, and we had great difficulty taking the body away. We were told that she was at Hospital No. 3. They didn't want to release her to us. We had to beg for a long time before they finally gave us permission.

PROSECUTOR: Did you argue with anybody about this?

MANZHIEVSKY: No.

PROSECUTOR: Did you talk about money with the hospital staff?

MANZHIEVSKY: No.

JUDGE: Are you familiar with this statement?

MANZHIEVSKY: Yes, I wrote it.

JUDGE: Tell us about the circumstances in which you wrote it.

MANZHIEVSKY: A woman came from Stern on May 3 to see us. She said that he was having difficulties at work, that he needed a document stating that we hadn't given him money and that we weren't holding anything against him because of mother's death. My sister and I signed it.

JUDGE: Did your husbands sign it?

MANZHIEVSKY: I don't remember.

DEFENSE COUNSEL: So you went to Stern and began to ask him to put your mother in the hospital. Stern agreed. What sort of document did he write out for you then?

MANZHIEVSKY: Well, what did he give us? He wrote out an order for tests. He wrote a slip of paper for her to be taken to the hospital.

DEFENSE COUNSEL: Which of the doctors examined your mother?

MANZHIEVSKY: Stern did.

DEFENSE COUNSEL: Now I have the following question. In your explanations, would you tell us, please, do you remember what you said about whether your sister put the money down in your presence or not?

MANZHIEVSKY: We were all there in the office when the money was put down. She was sitting beside him . . . and I was . . . on a couch next to mother.

DEFENSE COUNSEL: Then let me refresh your memory. "On the way back my sister told me that she had put twenty-five rubles under a piece of paper on the desk."

MANZHIEVSKY: She said that, but she . . . I saw how she . . . put something there, but I didn't know what she put. Later she told me that she put down twenty-five rubles.

DEFENSE COUNSEL: Now did the doctor see her put the money there?

MANZHIEVSKY: How should I know whether he saw it or not when I was sitting behind them? It was my sister who put it there. . . .

WITNESS PETRO RYBACHUK, BORN 1928

RYBACHUK: I am the husband of Stanislava Rybachuk, daughter of the late Karolina Liubetsky. She died in 1972.

JUDGE: Approximately when?

RYBACHUK: Just before May Day.

JUDGE: Who took her to the hospital?

RYBACHUK: My wife and her sister, Leonida Manzhievsky. About five days later we were informed that she had died, and we went to bring back the body.

JUDGE: Who went?

RYBACHUK: Leonida's husband, Sigismund Manzhievsky, and I. When we arrived, there was no doctor there—it was the holiday. Only a nurse was there. She kept phoning somewhere, but it was a holiday, and it was impossible to get anything done. This dragged on until evening. Then we went to another place, another hospital. There was a doctor there who gave us permission. Well, we took away the deceased.

JUDGE: Go on.

RYBACHUK: We brought her back and buried her. That's all.

PROSECUTOR: Were the two of you there, or did your wives come too?

RYBACHUK: I don't remember. I don't think my wife came. But I don't remember.

JUDGE (*presenting the statement*): Is this your signature?

RYBACHUK: It is.

JUDGE: Explain the circumstances in which you signed this document.

RYBACHUK: What's the date there? On May 3, 1972 my wife's sister Leonida Manzhievsky came to me and said that I had to sign it, that it was needed for the doctor.

JUDGE: Did you read it?

RYBACHUK: No, I didn't. I signed it without reading it. May I read it? (*Reads the statement.*) Everything's clear. It says that we didn't give

the doctor any money. But I wasn't there and so can't say anything to this point.

PROSECUTOR: Who took this statement from you?

RYBACHUK: Leonida Manzhievsky took it after I signed it.

DEFENSE COUNSEL: Did your wife say anything to you when your mother-in-law was admitted to the hospital?

RYBACHUK: I don't remember. I do remember that she was admitted.

DEFENSE COUNSEL: Was there talk about money?

RYBACHUK: There was talk about something, about giving something or maybe not. I don't remember.

STERN: In whose handwriting is this statement written?

RYBACHUK: Let me have a look. I think it's Leonida Manzhievsky's.

WITNESS SIGISMUND MANZHIEVSKY, BORN 1935

MANZHIEVSKY: Shortly before the holidays my wife and her sister took their mother to the hospital in Vinnytsia. On April 29 she came running to me and said that mother had died. Well, on the thirtieth we got together and went to get the body.

JUDGE: Who went?

MANZHIEVSKY: Rybachuk, my wife, and I. We got the body, brought it back, and buried it.

JUDGE: What do you know about the statement?

MANZHIEVSKY: After the holidays my wife came and said that a woman had arrived from Vinnytsia. She was asking us to write a statement that we had no claims against the doctor because mother had died. That is, against the doctor who had treated her, and that we hadn't given him money. I signed it and gave it to my wife.

PROSECUTOR: Is this your signature?

MANZHIEVSKY: It is.

PROSECUTOR: Did you go to Vinnytsia with this statement?

MANZHIEVSKY: No.

PROSECUTOR: Did you speak with the head physician about this?

MANZHIEVSKY: No.

PROSECUTOR: A question to Stern. Which of them did you meet in the office of head physician Urbansky?

STERN: This comrade here.

PROSECUTOR: A question to Manzhievsky. Is this true?

MANZHIEVSKY: No, it's not.

DEFENSE COUNSEL: Do you remember what was in the statement?

MANZHIEVSKY: Not completely. I do remember that we didn't give money

DEFENSE COUNSEL: Who told you that money wasn't given?

MANZHIEVSKY: My wife told me then that they hadn't given money. That's why I signed it.

DEFENSE COUNSEL: A question to Leonida Manzhievsky. Did you tell your husband that you hadn't given money?

LEONIDA MANZHIEVSKY (*greatly agitated*): I . . . didn't . . . have time then to tell him all the details. My sister gave the money.

DEFENSE COUNSEL: A question to Sigismund Manzhievsky. Did she tell you anything else?

MANZHIEVSKY: She told me that they had given money only in the summer of 1974. After the investigation began.

STERN: Do you know I never treated your mother-in-law?

JUDGE: Don't answer that. The question may not be put this way.

STERN: Do you know who treated your mother-in-law?

MANZHIEVSKY: No.

STERN: A question to Rybachuk. When were you first summoned in this case?

RYBACHUK: They've been dragging me around for a whole year now.

STERN: During the examination you said, "I didn't know that the organs would become concerned with this case." What organs did you have in mind?

RYBACHUK: The Soviet organs, of course.

When the day's proceedings end, Victor Stern is stopped on the street by a militiaman, Second Lieutenant Anatoliy Derun, and two plainclothes agents who were among the group of "law students" with whom Victor Stern had an argument in the morning. They claim that he tried to photograph the crowd and the prison van at the door of the courthouse. Then Victor Stern is informed that he is under suspicion of theft and is taken to the Lenin Region Department of Internal Affairs. Here he is searched, and a tape cassette with a recording of the trial and a sealed envelope are confiscated from him. Despite Victor Stern's protests, the envelope is opened in his presence and a document which according to Victor Stern had a direct bearing on the trial is thus destroyed. The envelope contained a copy of Dr. Stern's complaint to KGB Chairman Andropov about the illegal break-in at his apartment shortly before his arrest. A receipt which showed that the complaint had been sent by registered mail was also in the envelope. According to Victor Stern, this was the only proof that the family had posted the complaint in May 1974. After being detained for three hours, Victor Stern is fined thirty rubles for "disorderly conduct at the militia station."

DECEMBER 15, 1974

Vinnytsia
December 15, 1974

The Senate of the United States of America

On December 13, 1974 the Senate approved a bill on the reform of United States foreign trade and adopted the well-known Jackson Amendment concerning a considerable liberalization of the emigration policy of the USSR.

The adoption of the bill became possible on the basis of a compromise between the Senate and the Executive Branch which envisages the discontinuance of the practice by which specially fabricated criminal charges are used as a pretext for the harassment of Soviet citizens who desire to emigrate.

Our father, Dr. Stern, who has been accused of swindling and bribe-taking, is presently on trial in the town of Vinnytsia.

We assert that the case against our father has been entirely fabricated because of our intention to emigrate. We are prepared to confirm this by documents that are in our possession.

We believe that the judicial persecution of our father is a direct violation of the letter and spirit of the above-mentioned compromise, and we inform the United States Congress of this.

Victor and August Stern

MONDAY, DECEMBER 16, 1974

Day Four of the Trial

Scheduled to reconvene at ten o'clock, the trial is postponed to one o'clock. At this time people are told that a second delay has occurred and that the proceedings will definitely begin at four o'clock. Finally it is announced that no hearing will take place this day. No reason is given for the postponement.

In the evening Victor and August Stern are called to the office of Ivan Temchenko, First Deputy Prosecutor of the Province, who tells them that "distorted reports about the trial are being published in the West," and

photographs, tape recordings, or notes about the trial will therefore not be permitted. Anyone who continues to relay information will be liable to prosecution on a charge of anti-Soviet slander. Explaining that this is a purely "precautionary discussion," Temchenko warns the Sterns that the "organs of prosecution and the KGB will not tolerate leaks to the West of libelous information and will not allow notes to be taken on the proceedings."

TUESDAY, DECEMBER 17, 1974

Day Five of the Trial

To limit the public's access to the courtroom, a large group of taxi drivers is brought in. They sit in the courtroom casting puzzled looks and wondering why they have been brought here.

The JUDGE presents the new panel of experts: Dr. Anatoliy Olnev, Professor Andrei Yefimov, Director of the Clinic at the Kiev Institute of Endocrinology, Dr. Petro Andrienko, Senior Lecturer in the Department of Therapy at the Vinnytsia Medical Institute, and Dr. Lev Kuperman, physician at the Railroad Hospital.

DEFENSE COUNSEL: I have a question to Andrienko. Have you had experience as a practicing physician in endocrinology?

ANDRIENKO: We teach endocrinology, and this department was recently detached from us. I have had to cure such patients.

STERN: Is there an independent course in endocrinology at the Medical Institute?

JUDGE: The question is stricken.

STERN: What are your relations with Professor Zelinsky, who is the instigator of this anti-Semitic trial?

JUDGE: The question is stricken.

STERN: I categorically object to Dr. Andrienko because as a subordinate of Professor Zelinsky he is interested in the outcome of the case.

PROSECUTOR: I object to the petition of the accused. The reason for the challenge is farfetched. I believe that the petition cannot be granted.

DEFENSE COUNSEL: I support the petition of the accused.

JUDGE (*after a brief conference*): The court has ruled to turn down the

petition from the accused challenging Dr. Andrienko and to appoint a commission of experts consisting of Olnev, chairman, and Yefimov, Andrienko, and Kuperman, members. Will the accused please give an explanation of the charges against him?

FROM THE PRELIMINARY INVESTIGATION:

Volume 5, case sheets 91-95

October 10, 1974

DOCUMENT NO. 515

The commission consisting of chairman Olnev, Director of the Provincial Bureau of Forensic Medicine, and Professor Kuchuk, Chairman of the Department of Hospital Therapy at the Vinnytsia Medical Institute, and Candidate of Medical Sciences Koliada, Assistant in the Department of Forensic Medicine, members, has studied the material in the criminal case concerning the incident with citizen Harmasar [. . . .]

The commission has reached the following conclusions:

1. The results of laboratory and clinical observation indicate that the functioning of Harmasar's thyroid gland is not disturbed at present.

Thyrotoxicosis is a chronic disease which leads to severe complications, including death, when it is not treated.

2. The diagnosis of "medium severity thyrotoxicosis" issued to Harmasar on June 18, 1968 has not been confirmed either by objective clinical data or by the laboratory investigations. . . .

The said facts . . . permit us to assert that . . . Harmasar was not suffering from thyrotoxicosis in June 1968.

Olnev
Chairman of the Commission
Kuchuk and Koliada
Members

FROM THE INDICTMENT:

In 1968 the Vinnytsia Military Board referred Army Reserve officer Alexander Harmasar to the Provincial Endocrinological Health Center to determine the state of his health before deciding whether to call him up for refresher courses.

With the aim of subsequently obtaining a bribe from [Harmasar's] parents

and despite the protests of laboratory assistant Yegorova, who determined Harmasar's basal metabolism to be "+ 4 percent," Stern changed this reading to "+ 44 percent" in the Clinic log and despite the absence of laboratory data for this, issued a report that Harmasar was suffering from thyrotoxicosis, as a result of which Harmasar was not called up for refresher courses. Later Stern went to Antonina Harmasar, the mother of the reservist, and with the assistance of citizen Maliovana (who died on January 12, 1973) forced her to give him 200 rubles, onions, garlic and other produce.

STERN: I shall begin with the Harmasar episode in order to finish with the expert commission. The indictment asserts that six and a half years ago I gave Harmasar a false diagnosis, which he used to avoid being called up for officer refresher courses lasting one or two months. The indictment states that despite the protests of laboratory assistant Yegorova, I changed the results of Harmasar's basal metabolism test from + 4 percent to + 44 percent, and this was used to give the false report.

I want to state that Harmasar's two basal metabolism tests—by the Read method and on the Yevgraf spiograph—had absolutely no bearing on the conclusion sent to the Military Board. The report on Harmasar's examination issued by the Endocrinological Health Center with two signatures—the head physician's and my own—was dated June 18, 1968. The report states that outpatient examinations had established that he was suffering from thyrotoxicosis since 1966. His complaints included palpitation, sweatiness, headaches and loss of weight. He took diiodotyrosine and mercazolil. Objectively: first-degree hyperplasia of the thyroid, lagophthalmos, a positive von Graefe's sign, and hypotonia of the shoulder and hip muscles.

I emphasize that the report contained no data whatsoever about a basal metabolism test on Harmasar. Thus there can be no question of supposedly using false data from a basal metabolism test to issue a false report.

The second fact to which I wish to draw the court's attention is that the report to the Military Board was dated June 18, 1968, while the basal metabolism test was performed on June 20, 1968, that is, two days later. These tests were performed for the purpose of verifying the treatment and had nothing to do with the report sent to the Military Board. Furthermore, if you examine Harmasar's chart, you will see that he was not examined only by Stern when he was referred by the Military Board on June 18. He was also examined by Victor Kamenetsky, an endocrinologist and neuropathologist, who came to the conclu-

sion: "Harmasar's nervous system provides data characteristic of pronounced thyrotoxicosis."

And so, as the notes of the two doctors indicate, Harmasar had in 1968 a sufficiently clear picture of thyrotoxicosis. These data were sufficient to issue a diagnosis of "medium severity thyrotoxicosis."

Furthermore, I request that you direct your attention to the entries of endocrinologist Tverdokhlib, who examined Harmasar on September 9, 1974 on behalf of the previous panel of experts. By the way, for some reason these data were not taken into account by the previous commission when it submitted its report. Thus she wrote: "Lump in the throat, fatigue, thirst, loss of weight, and irritability. Has been ill about ten years. Heightened functioning of the thyroid discovered when he was a student in Odessa. Was under treatment, took insulin and pills . . ."

JUDGE: Just a minute, you're addressing the courtroom again instead of the court. Let me read it myself. "Took diiodotyrosine on orders from the physician at the medical station of Factory No. 45."

STERN: Please note that endocrinologist Tverdokhlib recorded in her examination in 1974 complaints about typical symptoms of throtoxicosis, including fatigue, thirst, irritability, loss of weight, pains in the heart region, and others. Please also note that the patient said that he had been ill for about ten years, that long before he came to see me, while still in Odessa, he was diagnosed as having a heightened functioning of the thyroid, which in certain cases is synonymous with thyrotoxicosis. The important thing is that he reported this six and a half years later. People often forget, but he remembers that he was undergoing treatment and that he took insulin, which is frequently prescribed for thyrotoxicosis. He states clearly that he took diiodotyrosine, which is prescribed only for thyrotoxicosis, and that it was prescribed for him by the physician at Factory No. 45.

And so, even a biased examination of Tverdokhlib's notes clearly proves that Harmasar suffered from thyrotoxicosis in the past, was treated for this reason, and took a specific remedy—diiodotyrosine. Quite naturally the old panel of experts, which was headed by Professor Kuchuk, a well-known anti-Semite . . .

JUDGE: Accused, stop this! Don't turn this trial into what some of the people sitting in the courtroom would like it to be. I am giving you a reprimand.

STERN: If they pin all sorts of labels in official documents on me, a doctor with thirty years of experience, then I can too. . . .

JUDGE: The court forbids you to apply the term “anti-Semite” to persons who are connected with the trial.

STERN: Very well. I understand that interested parties in the previous panel of experts headed by Kuchuk did everything possible to have me convicted. Despite the fact that Kuchuk was removed, I believe it is necessary to demonstrate the methods which were used to discredit the Jewish doctor Stern. Now you can’t forbid me to call myself a Jew. These methods are characteristic not only of the panel of experts, but also of the trial as a whole. Investigator Kravchenko . . .

JUDGE: I forbid you! This has no bearing on the case.

STERN: I spent six months in a gloomy dungeon, and I think that I should be given the opportunity to express myself . . .

JUDGE: Only you weren’t imprisoned in a dungeon, as the radio stations are saying. . . .

STERN: Let’s go and take a look. I invite you to come visit me.

JUDGE: Speak to the point.

STERN: The investigator wanted to include Kuchuk as an expert, but he knew that I would challenge him. By its decision the court has confirmed that Kuchuk is an impostor and that he was made a member of the panel illegally. Kravchenko suggested to Olnev that Kuchuk be made a member.

You have seen that the chart contains an entry for an examination of Harmasar by a neuropathologist. I ask you—if the patient’s chart contained entries by two specialists in endocrinology, a therapist and a neuropathologist, which clearly confirmed the presence of medium severity thyrotoxicosis, why was this not noticed? We can assume that Investigator Kravchenko does not know medicine. But the chart was examined by experts, who refer to it without having noticed Kamenetsky’s entries. And yet the panel’s members were physicians with professorial positions. So we still have a purely medical question—the correctness of the diagnosis. There may have been doubts about it if there had been only one signature there—my own. There must be a certain logic at work here. I would say that there is both a legal and a medical logic in the charges against me. But if professors, candidates of science, and finally laymen fail to notice that there is another entry there with the same diagnosis, then I have nothing left to say. This isn’t simply unheard of. It’s also symbolic. I believe that the previous panel deliberately ignored Kamenetsky’s entry. I believe that this happened because the organizers and directors of this trial needed to find significant evidence of Dr. Stern’s guilt. This could be done very conveniently with a falsified expert report signed by professors. I want to point out

to the court that the old panel of experts created a myth that I supposedly made changes in the results of the basal metabolism test and issued a false report on this basis. You have seen that the basal metabolism test was conducted on June twentieth, and not on the eighteenth. You have seen that I did not make any changes either in the patient's chart or in the report to the Military Board. Thus the argument that I supposedly used falsified results of the basal metabolism test in the report is absolutely groundless.

JUDGE: Please explain why the figure + 4 percent was crossed out and a new figure of + 44 percent was entered in the laboratory log in entry No. 243 for June 20, 1968.

STERN: I was just getting to this. The laboratory log does in fact contain + 4 percent, which was changed to + 44 percent and then back to + 4 percent. This is quite clear. But Harmasar's chart contains entries for two indicators of basal metabolism: "Basal metabolism + 4 percent. Yegorova." So you can see that I did not make any changes in the chart. There's another entry in the chart in my handwriting: "Read basal metabolism test: + 44 percent." If the chart contains genuine data and if I did not use these data in issuing the report, then what significance does this have for you? All the more since the entry in the log was changed back to + 4 percent. Where's the falsification here? How can the experts distort the facts so? Did the professor and the candidates of science really not understand that two different tests for basal metabolism were performed, which had nothing to do with each other: one by the Read method and one on the Yevgraf spiograph according to a different method? Did the experts have the right to confuse such elementary things which every medical student knows?

Now about the laboratory log. In June 1968 the nurse in our office of functional diagnosis was away on leave. By the way, we doctors call the basal metabolism test a "basic deception." It's usually performed for form's sake, and most decent clinics have long since abandoned it. It's full of errors and in fact has no value. Well, we had a critical situation with the nurse, and we allowed Yegorova, the cashier at the Health Center, to take her place for a month. She was given extra pay, and she performed the tests. Yegorova didn't work as a nurse either before or after June 1968, and she had never performed a basal metabolism test on the Yevgraf machine. Harmasar took his document to the Military Board on the eighteenth. But he was ill, and we suggested to him that he come back for treatment. He appeared on the twentieth for tests. Knowing that Yegorova was inexperienced and

knowing that Harmasar had a clear clinical picture of thyrotoxicosis, I performed a Read basal metabolism test myself, wrote down + 44 percent in the chart, and sent it to Yegorova. She gave me a fantastic result: + 4 percent. I went in to see her, picked up a green pencil, and changed it to + 44 percent, because + 4 percent is complete nonsense. Yegorova crossed out my correction and again wrote + 4 percent and then copied this figure into the chart. I didn't protest against this. This is the terrible "crime" I committed! This is how I "falsified" the data! But Kuchuk and company write: "The Read basal metabolism test was normal. Stern changed it to + 44 percent."

Furthermore, the previous panel of experts greatly exaggerated when it stated that thyrotoxicosis results in death if it goes untreated. I have seen dozens of cases of spontaneous recovery from thyrotoxicosis. In order to substantiate this I request permission to submit an extract from Werner's *The Thyroid* and Grollman's *Clinical Endocrinology*, which show that there can be spontaneous recovery from thyrotoxicosis.¹⁶ The previous commission cites the absence of symptoms of thyrotoxicosis at present. This is the same as arguing that if Harmasar was ill then, he must be ill now.

The extract from the second book shows that a doctor is justified in accepting examination results and medical history in determining a diagnosis and disregarding laboratory data if they do not correspond to the clinical picture. Thus Kamenetsky and I had every reason to issue a diagnosis of thyrotoxicosis on a purely clinical basis without any basal metabolism tests.

Furthermore, please turn your attention to the term "hyperthyosia" in the report of the previous panel. Can anyone here explain to me what this term means? There is no such medical term. And yet instead of "hyperplasia" they wrote "hyperthyosia." How could a medical specialist not see such a mistake in a specialized term—three mistakes in one word? This reflects the complete medical illiteracy of the person who read the report.

I am convinced that the previous report of the panel is a base falsification. It is an example of medical unscrupulousness and illiteracy. It is devoid of both common sense and medical logic. I believe that the expert examination was organized from beginning to end with only one aim: to give a scientific guise to the persecution of the Jewish doctor Stern, and not to establish the truth.

JUDGE: The court will recess briefly.

After the recess.

JUDGE: I propose that we first finish with this episode, that is, that we begin the examination of the witnesses involved in this episode.

PROSECUTOR: I have no objections.

DEFENSE COUNSEL: You are right. After Stern finishes testifying about Harmasar, I propose that we examine both Harmasars, Dr. Kamenetsky, and Yegorova. And also Dr. Tverdokhlib. I propose that we go further if we are already interrupting Stern's testimony. Let's examine the remaining witnesses and then give Stern an opportunity to speak.

JUDGE: Then everyone agrees with the first proposal. Agreed. What is the prosecutor's opinion about the second proposal—examining the witnesses before Stern testifies?

PROSECUTOR: I am against it. I propose that we decide this question in the course of the hearing.

JUDGE: Having conferred on the spot, the court has ruled to examine the witnesses in the Harmasar episode, then to return to an examination of Stern, and then we can decide how to proceed. Stern, please continue your testimony about the Harmasar episode.

STERN: Well then, I have convincingly demonstrated with a good deal of factual data that Army Reserve officer Harmasar was in fact ill and did not need my assistance in being released from officer refresher courses. Thus neither Harmasar nor his relatives had a motive . . .

JUDGE: I am again giving you a reprimand. Please enter it into the record. You must speak to the court, not to the public.

STERN: . . . had a motive for giving me a bribe because he was already ill and had been issued a report about the state of his health to that effect. This report was corroborated by the medical commission of the Vinnytsia Municipal Military Board, and that is why he did not go to refresher camp. That Harmasar's mother supposedly paid a bribe of two hundred rubles to have her son released two and a half months after he was examined by the Military Board—to explain where these accusations originated, I'll have to sketch in the background. As the court and everyone else can see, the Harmasar incident is very old. It happened about seven years ago. I want to emphasize that all the other incidents brought up in the indictment against me are also old. The Huzhva incident is almost four years old. The Manzhievsky-Rybachuk incident is about two years old.

Professor Zelinsky, who worked at the Vinnytsia Endocrinological Dispensary, and his assistants and toadies, systematically discredited

me for many years as a specialist and as a human being. Having obtained a degree in therapy,* he has come very recently to endocrinology from theory and not from practice. He was obviously disturbed by my great popularity as an endocrinologist with thirty years of experience and an impeccable reputation among patients, doctors, and the population at large. Zelinsky was obviously disturbed by my popularity and obviously sickened by my nationality. Everything possible was used in the attempt to discredit me—gossip, anonymous letters, and compromise of me as a specialist.

JUDGE: All your accusations are unsubstantiated and have no bearing on the case.

STERN: No. Take a look at the incident with Nechyporuk, whose chart disappeared mysteriously and was replaced by a new one. She was told that Dr. Stern “poisons children.” Take a look, it’s in her evidence. She went to see them after she had come to me. Who told her this? Who frightened the woman so much that she didn’t even come back for the thirty rubles she had left for medicine?

I want to draw your attention to something Head Physician Urbansky said during the preliminary investigation. It characterizes the situation at the Clinic: “Dr. Stern frequently emphasized the lack of knowledge on the part of his colleagues, including the staff of the Medical Institute.” They had sufficient motives to want to do away with me. Anonymous letters, denunciations, and public statements about me came one after another. I assume that they all came from the same source.

Recently, however, anonymous letters of a completely different sort began to arrive. I openly talked about these letters during staff meetings at the Clinic in the presence of personnel from the Medical Institute. As a member of the Party and the Komsomol for forty years I expressed my outrage about these filthy anti-Semitic letters. Zelinsky was the secretary of the Party bureau of the medical department at that time. This obviously placed on him the obligation of speaking up after I had read one of them, of disassociating himself from them, and of condemning the people who spread dissension among Soviet nationalities. But he did not do so. I want to make public the text of this anonymous letter.

JUDGE: Don’t do that. We have become acquainted with it. Don’t read it. It has been entered into the record.

STERN: Very well. You agree that this is a filthy anti-Semitic letter?

JUDGE: We agree.

*See note on page 35.

STERN: I emphasize that despite numerous investigations of all these denunciations, only a residue of anti-Semitic slander remained of them. Thus until May 1974 all the old accusations against me were not confirmed by numerous investigations. And then in the middle of May my younger son received a notice to appear at the Visa and Registration Department to receive an exit visa, which in no way contradicts Soviet legislation and which corresponds to the humane principles and high ideals of the United Nations' Universal Declaration of Human Rights, which was signed by all the members . . .

JUDGE: Listen, we know all this. Please speak to the point. Who needs this? Is there anybody who doesn't know about this? The court knows about the signing. Speak to the point.

STERN: I am concluding now. And so on May 12, 1974 . . . I request the court to obtain from the militia a document which was confiscated from my son. This letter has a bearing on the case. It is the prehistory of my arrest. On May 12, 1974, all the members of my family who were then in Vinnytsia were summoned to various offices of the Provincial Department of Internal Affairs. My son Victor, for example, was summoned to the State Motor Vehicle Office on a ridiculous hit-and-run charge. My wife was summoned to the Provincial Visa and Registration Department because some high officials supposedly wanted to speak to her. My daughter-in-law, my young grandson, and their dog were summoned to another department of the Motor Vehicle Office for a chat. I am astounded at the insolence of the person who conducted this conversation. I was in Kharkiv at the time. My entire family was held there for four hours, and while they were gone "unknown persons" got into our apartment by picking the lock. I cannot say who these people were and what they were doing in our apartment. But they did have an opportunity to see that in the rooms of my grown children everything was packed for a long trip. When I came back from Kharkiv—this was on May 13—I dictated to my older son Victor a letter to KGB Chairman Andropov. . . .

PROSECUTOR: I believe that these statements which the accused Stern is making here for the benefit of the public should be examined by the competent organs to which they were directed. It's not our job to listen to them here and to check their reliability. I request that my objection be entered into the record.

DEFENSE COUNSEL: I categorically disagree with the prosecutor's remark. I believe that the accused has the right to speak about all the facts which from his point of view have a direct bearing or explain the charges brought against him. Depriving him of this opportunity, from my point

of view, is the same as not letting him say what he wants to about the charges in an open court. I request, therefore, that the prosecutor's remark be overlooked and Stern be given the opportunity to go on speaking.

JUDGE: The court cautions Stern that he must try to stick to the point.

STERN (*ambiguously*): That's exactly what I'm trying to do. I'm finishing now. I want to tell the court that if the Harmasar episode had not come to light exactly on May 14, I wouldn't be speaking about this whole business. I also want to say that I have taken the advice of the Chairman of the Court into account and am practicing unusual restraint today. I'd speak in an entirely different way if I were conversing with the investigator or the prosecutor. I am trying to restrain myself. So now I only want to say how the copy of the letter to the KGB Chairman disappeared, which I had wanted to submit as material evidence.

PROSECUTOR: Objection! Let him take up these questions with the competent organs!

STERN (*exploding*): Why am I not allowed to speak? I request that I be protected against the prosecutor's psychological terror! In this letter, which was sent on May 13, I wrote that I requested that my family be protected against break-ins at our apartment, protected against attacks by gangsters and bandits.

JUDGE: Are you certain that this was done by the organs?

STERN: If I knew the people who did this by name, I would write in a completely different way. By the way, why does this incident evoke such fear on the part of the prosecutor? If someone violates the law, be it even a member of the MVD or the KGB, does the Soviet government bear responsibility for this, as was the case, for example, when our most prominent military leaders and other people were executed in 1937?¹⁷

JUDGE (*sadly*): Well, why are you saying all this? What bearing does it have on the case?

STERN: Have the prosecutor stop interrupting me. The question of Harmasar might not have come up in the middle of May 1974 if those who broke into the apartment had discovered something more significant.¹⁸ I wouldn't be talking about this letter if it didn't have a bearing on the case. Because I was afraid of further provocations, I described in this letter everything that had happened. I believed that if such things continued to occur, the sealed copy of the letter with the receipt and the postmark would prove that I had sent a complaint then.

But on the thirteenth, as he was leaving the court, my son Victor was stopped by militiamen on a suspicion of theft. He was searched and the

sealed copy of the letter was confiscated and destroyed. I request the court to require an explanation from the militia.

JUDGE: How do you know about this?

STERN: My defense counsel told me. So I have explained what happened to me at the time when the Harmasar episode suddenly cropped up. Now I return to the episode itself. Harmasar came to see me in June 1968. About two and a half months later the question of painting my son's car came up, and we had to get paint, which—as every motorist knows—is impossible to obtain. This paint can be found only at the Sutisky electrical appliance factory. I remembered that one of my patients had recently told me that his mother was the chairman of the Sutisky village council. This is why I went there. At that time I didn't even know the name Harmasar. Britanov, the late head physician at the Clinic, and I drove to this village and went into the village council office. We found out where she lived and went to see her. We introduced ourselves and asked her to obtain the automobile paint for us for money. Although this happened six and a half years ago, I remember very clearly that she received us quite cordially. She did, in fact, of her own good will, put in the car trunk a small amount—I think the investigation mentioned seven or eight rubles' worth—of apples and grain. She put it there as a gift, of her own good will. Neither of us asked her for this. We protested, perhaps we protested only for appearance's sake—everyone knows how difficult fresh produce is to obtain—but we didn't refuse the gift. There is an age-old tradition of thanking doctors, and it's not for us to change it! I categorically deny receiving any bribes from Antonina Harmasar. I categorically insist that there was no talk about money either with Antonina Harmasar or with her son, which she confirmed, by the way, at the confrontation. I am convinced that the surfacing of this clumsy episode six and a half years after Harmasar came to see me and the letters sent by victims to the Prosecutor's Office between May 14 and 17 clearly indicate that the interested parties had to find a way to persecute the Jewish doctor Stern. This they did through a collective effort by the Prosecutor's Office and the Medical Institute and this then appeared in the investigation and the panel of experts. A collective of Kravchenko, Zelinsky and Kuchuk! A decision was made to use all available means to turn me into a bribe-taker, extortioner and rogue.

If I had taken money from Harmasar, I would have done so before I submitted my report or at least immediately afterwards, but not two and a half months later. Would I have really waited two and a half months and then gone to demand a bribe from a person who was a complete

stranger to me? That's illogical. Bribe-takers don't do that. I emphasize once more that Harmasar was ill and did not need my assistance in being released from the refresher course.

Why should she have given me money? Any intelligent person will ask what threat there was to her, how I could have intimidated her, how I could have demanded money from her, as Investigator Kravchenko claims that I did. During the investigation she says about this: "After I gave Stern seven or eight rubles' worth of produce he said, 'That's not all.' " It seems to me that even if we accept for a minute the fantastic idea that I said these words, no normal person would have responded by pulling out and handing over two hundred rubles to a complete stranger. Unfortunately, head physician Britanov and Maliovana, the two witnesses who could have refuted this lie, have died. Kravchenko and Zelinsky apparently were not afraid of testimony from the other world and jointly composed this act in my tragicomedy.

Now I want to sum up certain things. Why did the Harmasar episode, together with the Huzhva and Overchuk episodes, serve as the basis for my arrest? I request that you open the case file to volume 1, page 117, where I write the following: "Please pay particular attention to the statement by citizen Overchuk that her son could have been poisoned during treatment. This proves that her statement was instigated by someone." Overchuk was not the only one to write this. On May 16 or 17, another "victim," who had nothing but compliments for me here, Matvienko, wrote . . . Overchuk called me a poisoner, while school-teacher Matvienko wrote to the prosecutor: "Please explain to me whether my son was treated properly. And are the injections that my son received permitted for use at all?" If you remember, he came to me at fifteen with the development of a three-year-old, and I made him into a man in half a year. She thanked me without hesitation in court. But look what she wrote then. This could only have been dictated to her. "As a mother I trusted the doctor. In our country doctors stand on guard and protect the health of people, especially of young people." To write such nonsense about the health of her only child, she would have had to have believed that the Jewish doctor Stern is a spy assigned to give Soviet people improper treatment, that he was paid to do this. Matvienko could have been taught all this only by the people who are interested in discrediting me.

Now let us take the episode with Huzhva. In all the other episodes, the charges against me involve three, five, or ten rubles. The episode with Huzhva is the only one where I am sued for five hundred rubles. Later, my defense counsel and I will show the absurdity of this suit.

There will be nothing left of it but hot air, as they say. And so, why did these three incidents serve as a pretext to issue an arrest warrant for a man who devoted thirty years of his life to medicine and to his patients? I shall answer this question. A simple peasant woman, Anna Overchuk, was brought to the forefront of the accusation against me. She directly accused me of poisoning and spying and of receiving money for improperly treating Soviet people. This was necessary to crush me psychologically immediately after the arrest, to break down my resistance. The investigator needed to show me and everyone else how certain individuals had managed to convince the common people (and I want to note that this proved to be a lie, a slander against the common people) that Dr. Stern is a poisoner and a spy. That's why the first thing thrown in my face was Overchuk's accusation.

In the Huzhva incident I am convinced that he was a suborned witness, and I shall try to prove this later. At the Beilis trial, there was Cheberiak. At the Doctors' Trial in 1952, there was Timoshchuk.¹⁹

JUDGE: Stop making these comparisons immediately! How do you know that he was suborned? We warn everyone here that they may make themselves liable to criminal prosecution by giving false evidence. If we come to the conclusion that he is not speaking the truth, we shall raise the question of instituting proceedings.

STERN: It was necessary to demonstrate with the example of Huzhva, who supposedly spent five hundred rubles to treat his sick wife, who he knew was incurable and who had postoperative tetany, it was necessary to demonstrate how the Jewish doctor Stern sucks the people's blood. And the Harmasar incident was needed to demonstrate what Stern is up to. He's involved in anti-Soviet activity, he frees people from being called up to the army. I ask the court to examine my case, which is not at all ordinary, very attentively and objectively. In a personal sense my fate has no meaning for anyone except my family, but I am thoroughly convinced that my trial is an important precedent for all those who might want to make use of their legal rights, including the right to leave the country.

JUDGE: The court will recess.

After the recess.

PROSECUTOR: You have been talking about some sort of Stern method. Who invented this method? What does it consist of?

STERN: Every doctor who has extensive practical experience modifies generally recognized methods of treatment by introducing certain correc-

tives, which his own experience suggests to him. I have no intention of speaking in detail here about the essence of these changes since I still hope to publish my results. I shall say a few words, however. In treating hypogenitalism and another illness, retarded growth and development, I apply hormonal preparations and vitamins which are used in endocrinology, but in each case I individualize the combination, the dosage, and the sequence of applications. I believe that there are no diseases, only patients, although in fact this has no bearing on the case. You have seen from concrete examples here in court, one example being Overchuk, who was treated by other doctors before he came to me, that ordinary doses of ordinary hormones, applied according to my modification, have a very good effect. This is the common method of a practicing physician, which has given splendid results. This is not my own method. It is based on data from both foreign and Soviet medical science and practice.

PROSECUTOR: Then why have you appropriated it if it isn't yours?

STERN: I haven't appropriated anything that isn't mine. My own contribution to this method is that I use it in my own way.

YEFIMOV: What did you apply in the treatments according to your method?

STERN: I believe that this has no bearing on my alleged criminal activity. The results have not been published yet, and I don't want to share them with anyone while I am in the dock.

JUDGE: Bring in witness Antonina Harmasar.

WITNESS ANTONINA HARMASAR, BORN 1924, CHAIRMAN OF VILLAGE COUNCIL

HARMASAR: In the summer of 1968, I don't remember the exact month, a neighbor of mine, the late Kateryna Maliovana, came to see me and said, "Your son had a medical in the city." My son was living in the city. He was working there. He's been sickly since childhood. He had goiter. She said that she often went to Vinnytsia. My son had red eyes and frequent attacks. She said that she knew Mikhail Stern, that he was a good doctor. We talked a bit and then went our ways. And then one day Kateryna came to me and said, "I want to tell you that your son is very ill. Stern is here," she added, "and he'll come and talk to you." He came in a black Volga. . . .

VICTOR STERN tries to tell his father in sign language that Harmasar is lying because in 1968 his car was gray, not black. STERN does not

understand the signs. The JUDGE evicts VICTOR STERN from the courtroom with a shout.

JUDGE: You learned from Maliovana that he was coming?

HARMASAR: Yes, she said that Stern was in the village. He arrived about fifteen minutes later.

JUDGE: Alone?

HARMASAR: He came alone. Right to the house.

JUDGE: Who was present there?

HARMASAR: Maliovana, Stern, and myself.

JUDGE: Can you remember what you talked about?

HARMASAR: I tried to be hospitable to them. He told me that it was like this and like this, my son was ill. He has a goiter, he underwent a medical, and he needs to be hospitalized. I said that I would talk to my son. "You have nice apples," he said. I wanted to give him what he liked, and so I picked about twelve kilograms of apples and put them in his trunk—all from my own household. He asked whether I had any millet for birds. I gave him some wheat. Well, that was all. Then he says, "That's not all." I went over to Maliovana and asked her, and she said I'd have to give him money. She said that he was a very good doctor. So I decided to give him two hundred rubles. He put it in his pocket. Kateryna was standing beside us. Then my son came home, and I told him that he needed to go to the hospital for treatment. But he said, "I don't have the time. I don't want to be treated. I have to defend my dissertation. I don't want to go to the hospital. I'll go to a sanatorium when I have a vacation." And that was all.

PROSECUTOR: Did you see him again after that?

HARMASAR: Yes, he phoned later and asked me to get him a can of japan black.

PROSECUTOR: Was there talk about japan black the first time you met?

HARMASAR: No.

PROSECUTOR: Did you say something different during the confrontation?

HARMASAR: No.

PROSECUTOR: A question to Stern. The witness says that you were alone. Is that true?

STERN: It's not true.

PROSECUTOR: Did you take two hundred rubles?

STERN: That's a lie.

PROSECUTOR: Did you mention during the investigation that you were with the head physician?

STERN: I didn't mention it to the investigator, but I wrote about it in my statements.

DEFENSE COUNSEL: When did you first learn about your son's illness?

HARMASAR: His eyes were big and red ever since he was a child, and the doctors told him when he went to the Institute. He was studying at the Institute in Odessa.

DEFENSE COUNSEL: Was he treated in Odessa or later?

HARMASAR: No, he was never treated.

DEFENSE COUNSEL: He wasn't treated in the sense that he didn't stay at a hospital or in the sense that he didn't take medication?

HARMASAR: No, he took medication, but he wasn't treated at a hospital.

DEFENSE COUNSEL: You said that you had a talk with your neighbor about your son's health in the summer of 1968. Can you try to remember the month?

HARMASAR: I don't remember exactly. It was August or September.

DEFENSE COUNSEL: Was that the first time?

HARMASAR: Yes.

DEFENSE COUNCIL: And did Stern come soon after that?

HARMASAR: Yes.

DEFENSE counsel: Do you know when your son had the medical in connection with being called up for the refresher course?

HARMASAR: A month and a half or two months before that.

DEFENSE COUNSEL: Then the talk took place a month and a half or two months after he had the medical?

HARMASAR: Yes.

DEFENSE COUNSEL: Did your son tell you why he wasn't sent to the refresher course?

HARMASAR: Yes, his factory asked for a deferral.

DEFENSE COUNSEL: Do you know what Stern is being charged with in this episode?

HARMASAR: Of course I know what he's been charged with—taking money.

DEFENSE COUNSEL: Why did you give him money? Because he had released him from the refresher course?

HARMASAR: Of course not. What are you saying? Do you think I'm a complete fool? Who would give two hundred rubles for a month's deferral? There wasn't even any mention of the army. I gave him two hundred rubles to treat my son. I never gave Stern any bribes.

WITNESS ALEXANDER HARMASAR, BORN 1944, FACTORY WORKER IN VINNYTSIA

HARMASAR: I had a medical in 1968 at the Military Board, which referred me to the Endocrinological Health Center. A year after I graduated from the Institute, a lot of us were called up in 1968 for a one-month refresher course. I wasn't called up after the medical, but I don't think that this had anything to do with medicine because a lot of my classmates, who were in good health, also weren't called up.

PROSECUTOR: Where were you treated?

HARMASAR: I never was treated properly. I had only incidental and irregular treatment. I took pills. I was not treated at a hospital.

PROSECUTOR: Have you been ill for a long time?

HARMASAR: There has been a suspicion of a heightened functioning of the thyroid since my school days. As a student I took pills for a while, and then at the factory.

PROSECUTOR: What do you know about Stern being given money?

HARMASAR: I learned about this from Investigator Kravchenko. He told me that my mother had supposedly given Stern money. My mother was called in for interrogation before I was, but she never mentioned money to me.

JUDGE: But you did receive treatment from Stern, who was given money?

HARMASAR: No. My mother told me to go, but I couldn't for personal reasons.

DEFENSE COUNSEL: Were you examined by an endocrinologist in 1974?

HARMASAR: A woman at the Pyrohove hospital examined me.

DEFENSE COUNSEL: There are notes by her that you reported being "ill for about ten years." Did you tell her that?

HARMASAR: Yes, I did.

DEFENSE COUNSEL: Where did you work before this factory?

HARMASAR: At Factory No. 45.

DEFENSE COUNSEL: Did you go to the medical center there?

HARMASAR: Yes.

DEFENSE COUNSEL: Why?

HARMASAR: I had pains in the small of the back. I was sweating, and I had a lump in my throat.

DEFENSE COUNSEL: What did you take?

HARMASAR: They prescribed pills for me there.

DEFENSE COUNSEL: What kind?

HARMASAR: Mercazolil and, I think, diiodotyrosine.

DEFENSE COUNSEL: Who examined you when the Military Board referred you to the Clinic?

HARMASAR: I don't remember.

DEFENSE COUNSEL: Why were you referred precisely to the Endocrinological Clinic?

HARMASAR: They asked me, and I told them how I felt. As a result of this conversation and examination they decided to send me to the Endocrinological Clinic.

DEFENSE COUNSEL: Were you examined again by doctors at the Military Board after you went to the Clinic?

HARMASAR: I was.

DEFENSE COUNSEL: And what?

HARMASAR: They said they weren't calling me up.

DEFENSE COUNSEL: Did you ever hear that Stern had been paid to release you from being called up?

HARMASAR: No, never.

DEFENSE COUNSEL: Perhaps someone in your family went to Stern at some time with such a suggestion?

HARMASAR: No one ever went to him. I know that for a fact.

WITNESS DR. ZINAIDA TVERDOKHLIB, ENDOCRINOLOGIST AT THE PYROHOVE HOSPITAL

TVERDOKHLIB (*summoned at the request of the defense, she shakes constantly while on the witness stand*): Early in October 1974, the medicolegal commission sent patient Harmasar to me for an examination. I don't remember the details, but he was not found to have thyrotoxicosis at present.

JUDGE: On what basis did you come to this conclusion?

TVERDOKHLIB: The Medical Institute sent a curve of iodine absorption, and I made the diagnosis on that basis.

DEFENSE COUNSEL: What clinical or laboratory data did you use in determining Harmasar's diagnosis?

TVERDOKHLIB: Primarily clinical data.

DEFENSE COUNSEL: What sort of medical history did he have?

TVERDOKHLIB: He said that he had been ill for ten years.

DEFENSE COUNSEL: Your entries state that he was treated on orders of the factory physician. Did he tell you this?

TVERDOKHLIB: It was written down from what he told me.

DEFENSE COUNSEL: Did he say what medicine he had been taking?

TVERDOKHLIB: He said that he didn't remember. He didn't give me the name of the pills.

DEFENSE COUNSEL: There's an entry in your handwriting that he said that he had been taking insulin and some sort of pills and that he had been ill for ten years. Did he say this?

TVERDOKHLIB: I don't remember. If I wrote it down, then he must have said it.

DEFENSE COUNSEL: Have I understood you correctly: you also had laboratory data about iodine absorption?

TVERDOKHLIB: Yes.

DEFENSE COUNSEL: Where were these tests performed?

TVERDOKHLIB: At the Vinnytsia Medical Institute.

DEFENSE COUNSEL: A question to Harmasar. Where did you have your laboratory tests performed when you were referred by the panel of experts in 1974?

HARMASAR: I had tests done two times, first at the Pyrohove Hospital, and then at the Medical Institute. The first time was for basal metabolism. The second was for iodine absorption.

DEFENSE COUNSEL: What was the period between these two tests?

HARMASAR: About two weeks.

DEFENSE COUNSEL: Who sent you to have these tests?

HARMASAR: Koliada, the expert from the Medical Institute, sent me both times. He led me by the hand to the office.

DEFENSE COUNSEL: Who performed the basal metabolism test?

HARMASAR: I don't remember. They only told me later that the tests had to be repeated because something hadn't come out.

DEFENSE COUNSEL: Who told you this?

HARMASAR: I was asked to go see Koliada again by Investigator Kravchenko, and Koliada told me.

DEFENSE COUNSEL: Then in connection with the expert examination you had two laboratory tests and an examination by Dr. Tverdokhlib. Is that right?

HARMASAR: That's right.

STERN: I have a question to Tverdokhlib. Have you been informed about the results of Harmasar's basal metabolism test at the Pyrohove hospital?

TVERDOKHLIB (*looking at the JUDGE in fright*): I don't understand anything. There was only an iodine diagnosis. . . .

STERN: But you heard. The patient just stated . . .

TVERDOKHLIB: I . . . don't know. . . . I'll have to check it.

STERN: How did the phrase that he took diiodotyrosine get into your entry? You said that he hadn't been taking drugs.

TVERDOKHLIB: I don't remember. If I wrote it down, then he must have said it. I don't remember now.

STERN: You could have written down diiodotyrosine only if Harmasar had mentioned it. You didn't invent this, did you?

JUDGE: That is a leading question. The question is stricken.

STERN: How did this term get into your entry?

TVERDOKHLIB: I don't remember. . . . You have the report. Take a look at it. I wrote it down from what he told me.

WITNESS DR. VICTOR KAMENETSKY, BORN 1930, NEUROPATHOLOGIST AT THE VINNYTSIA ENDOCRINOLOGICAL HEALTH CENTER

JUDGE: Are you acquainted with the patient Harmasar?

KAMENETSKY: Harmasar? I don't remember.

JUDGE: Here's his chart. Is this your entry?

KAMENETSKY: Yes, this is my handwriting. Let me take a closer look at it and give you an explanation.

JUDGE: Go ahead.

KAMENETSKY: Judging by these entries, the patient was referred to me for consultation by Dr. Stern. There's an entry here by Dr. Stern: diagnosis of thyrotoxicosis. The diagnosis was based on clinical data. (*Enumerates them.*) All the clinical symptomatology was on hand, and there is no doubt that the diagnosis corresponds to the data recorded by Stern. There was no need for me to repeat these symptoms. I examined the patient from a neurological point of view. There is a symptom, recorded by me, which is considered to be a characteristic neurological sign of thyrotoxicosis—hypotonia of the shoulder and hip muscles. It is characteristic of pronounced forms of thyrotoxicosis, that is, for medium and severe forms, and that is why I issued a diagnosis of thyrotoxicosis.

DEFENSE COUNSEL: There is an entry by you: "ill since 1966." Do you usually collect a medical history?

KAMENETSKY: If I wrote it down, then the patient said it.

DEFENSE COUNSEL: Tell me, please, do you usually verify therapeutic symptoms or not?

KAMENETSKY: Usually I verify all symptoms noted by the therapist. But if I see no difference, I don't record anything.

DEFENSE COUNSEL: Tell me, then, if you had seen therapeutic symptoms which differed from Stern's notes, would you have marked this?

KAMENETSKY: Yes, I certainly would have.

DEFENSE COUNSEL: Tell me, did anyone ask you to make this entry in the chart? Did anyone offer you money? Perhaps Stern asked you?

KAMENETSKY: No, no one ever did.

STERN: Were there instances when we differed in our diagnoses?

KAMENETSKY: Yes.

STERN: Did you always write down your opinion in such instances?

KAMENETSKY: Yes.

STERN: As far as I know, you have spent ten years studying neurological pathology in endocrinological patients. I have two questions of a technical nature for you.

KAMENETSKY: Go ahead.

JUDGE: I am striking your questions. His opinion has absolutely no significance for us. We have the commission of experts for this. He is here as a witness.

STERN: Very well. In that case I have other questions. Are you certain about this diagnosis now, or do you have some doubts?

KAMENETSKY: I always express my doubts in writing.

STERN: Do you share the responsibility with me for this diagnosis?

KAMENETSKY: I am always ready to answer for what I have signed. Yes, I do share the responsibility.

After a pause.

JUDGE: Are there any other witnesses? No? Very well.

STERN: I want to submit a petition. According to Article 296 of the Criminal Procedure Code, I can submit petitions at any time.²⁰ I protest against the violation of this right. On December 12 I was not given an opportunity to make public a petition about the methods used by the prosecutor. It was passed on to the chairman without being made public. But the court has not rendered a decision about this petition, and I request that this be done now, because the prosecutor is continuing to do the same thing. The petition indicated that the prosecutor subjected victim Sushko to psychological torture while interrogating him. He posed the same question about the price of a drug ten times in a row. The prosecutor was openly applying pressure on Sushko to get him to confirm the testimony he had given during the preliminary investigation. This incident not only reflects the methods of interrogation used by the prosecutor at the trial, but also confirms that the case was fabricated during the preliminary investigation. The investigator refused to let me have a confrontation with Sushko. All in all, you have

seen that of nineteen witnesses eighteen have already to a greater or lesser extent denied their preliminary evidence. This is why it is so important that the examinations during the court proceedings be conducted normally. I request that the prosecutor's pressure on witnesses be stopped.

JUDGE: That's enough. The hearing is adjourned.

SOVIET EMIGRATION: THE CASE OF DR. STERN

To the Editor:

Dr. Mikhail Shtern of Vinnitsa, Ukrainian S.S.R., faces the probable "distinction" of being the first Soviet Jew since the Jackson amendment compromise to face long imprisonment because he applied to emigrate to Israel.

Dr. Shtern faces trial despite Secretary of State Kissinger's assurance to Senator Jackson that "punitive actions against individuals seeking to emigrate from the U.S.S.R. would be violations of Soviet laws and regulations and, therefore, will not be permitted by the Government of the U.S.S.R."

In October the director of the investigation department of the Prosecutor's Office of the Ukrainian Republic openly admitted to Dr. Shtern's sons that their father languished in prison because of his application to emigrate to Israel.

Dr. Shtern, aged 56 and suffering from tuberculosis, ulcers and a heart ailment, was kept in underground solitary confinement for three months. He has now spent over six months in prison without trial. Dr. Shtern was previously director of the Endocrinology Department and senior consultant at the Vinnitsa Provincial Health Center, where he had introduced contemporary methods of diagnosis and of curing endocrinological illnesses.

The principal accusation of the Soviet secret police (KGB) is that Dr. Shtern poisoned children in his care, a charge reminiscent of the infamous Stalinist "doctors' plot." Dr. Shtern has also been accused of taking bribes from patients to provide them with generally unobtainable drugs. Two witnesses interrogated by the KGB have confirmed that false evidence was demanded of them. The court-appointed lawyer for the defense has refused to talk to the family. Dr. Shtern's sons have been threatened that if they make a fuss about the case, their father's imprisonment will be prolonged.

A rumor is circulating in Vinnitsa that a sentence has already been

decided upon by the authorities. Whether such a travesty of justice is permitted to occur will be an important indication to us of whether the Soviet Government is seriously interested in maintaining a medical exchange program with the United States.

J. Lester Gabrilove

Donald Gribetz

Dorothy T. Krieger

Ralph E. Moloshok

Louis J. Soffer

New York, Dec. 12, 1974

The signers are physicians from the Endocrine Divisions of the Departments of Pediatrics and Medicine, Mount Sinai School of Medicine.

WEDNESDAY, DECEMBER 18, 1974

Day Six of the Trial

JUDGE: Yesterday the accused Stern submitted a protest about the methods used by the state prosecutor in interrogating witnesses. The court rules that the charges against the prosecutor are groundless. In addition I received a statement yesterday from Victor Stern about a talk Prosecutor Kryvoruchko had with unexamined witnesses in the office of Vice Chairman of the Court Dovhaniuk. I shall read this statement.

Judge Orlovsky
Vinnytsia Provincial Court

December 15, 1974

A STATEMENT

Allow me to draw to your attention the fact that on December 13, 1974 before the start of the morning session in the case of my father, M. Stern, the state prosecutor at the trial, Kryvoruchko, had a discussion with unexamined witnesses for the prosecution, Semen Huzhva, Maria Huzhva, Stanislava Rybachuk and Antonina Harmasar. The discussion took place in the office of Comrade Dovhaniuk, Vice Chairman of the Provincial Court, in his presence.

I also direct your attention to the violation of the Criminal Procedure Code, which requires the judge to ensure that examined witnesses shall not have an opportunity to communicate with witnesses who have not been examined yet. The violation occurred during a recess after the examination of witness Rybachuk, during which Rybachuk had the opportunity to communicate with her sister Manzhievsky, who appeared as a witness in the same episode after the recess.

I request that you take the said facts into account when you evaluate the reliability of the witnesses' testimony.

Victor Stern

cc: Supreme Court of the Ukrainian SSR

JUDGE: What is the opinion of the parties?

PROSECUTOR: I think that nobody has any doubt that this is yet another slanderous statement. These statements are being made for use by hostile radio stations in the West. I request that these statements be filed with the case. I also request that the witnesses mentioned in the statement be called back to court for further examination to verify this concoction, which is intended to compromise me and the entire trial, and that the proper conclusions be drawn from this.

JUDGE: I was present in that office too. These people did in fact come there on the thirteenth because an expert hadn't arrived yet. This is all being done for the radio stations. Not everybody knows that they are reporting that Stern is accused of murder. But he's not a murderer or a spy. And yet they're broadcasting that he's on trial for murder and for wanting to emigrate. In point of fact he is being tried for practicing of extortion and taking bribes. They're also broadcasting that he's been coughing up blood. Has anyone seen this? This is all being reported by some people here in the courtroom. We have assembled here not to make short shrift of someone, but to examine the case objectively. There was no conversation. Nobody applied pressure on the witnesses to teach them how to behave in court. (*To a militiaman.*) Why are these people standing? Anyone who doesn't have a seat must leave the courtroom! The court forbids standing in the courtroom!

The militiaman begins to push out the people who have been standing. Some of them move into a corner and try to stay behind.

MILITIAMAN: Did you hear what the judge said? (*Pushes out the remaining people.*)

JUDGE: Witness Liudmila Yegorova is summoned.

MILITIAMAN (*calling into the corridor*): Witness Liudmila Yegorova is summoned!

WITNESS LIUDMILA YEGOROVA, BORN 1943, CASHIER AT THE VINNYTSIA ENDOCRINOLOGICAL HEALTH CENTER

JUDGE: Tell your story.

YEGOROVA: In 1968 I was substituting for the nurse at the Clinic because she was away on leave.

JUDGE: Did you perform an analysis on Harmasar?

YEGOROVA: Yes, I performed a basal metabolism test on him.

JUDGE: What was the result?

YEGOROVA: Four percent. I recorded this result in the diagnostic lab book.

JUDGE: And who added 44 percent?

YEGOROVA: Dr. Stern changed it. I saw that he had changed it and told him. He said, "Do what you like," and then I circled this figure and changed it back.

PROSECUTOR: On case sheet 47 of volume 1 you testify: "The patient came on referral from the Military Board. Stern ordered a basal metabolism test for him. I said that the patient was not ready. Stern said that the test should be given without preparation." Did you give this testimony?

YEGOROVA: No, I only said that he said that I was wrong.

PROSECUTOR: In what?

YEGOROVA: In that I had incorrectly written down the results of the basal metabolism.

JUDGE: You in the last row, stand up! Leave the courtroom immediately!

MAN (*standing up*): What's wrong? What did I do?

JUDGE: You're making noise and interfering with the proceedings.

MAN: I'm not making any noise.

JUDGE: Leave the courtroom immediately. (*The man leaves the courtroom, casting angry looks at the JUDGE.*)

STERN: I have another challenge to a member of the panel of experts.

JUDGE: This question has already been settled, and there will be no more challenges. Recess!

During the recess the man evicted from the courtroom angrily tells the Sterns and their friends how upset he is by the judge's crude behavior.

JUDGE (*after the recess*): The members of the panel of experts have had an opportunity to examine Harmasar. I request the parties to submit questions to the panel.

PROSECUTOR: I have the following questions for the experts. One, did the state of Harmasar's health in June 1968 correspond to the diagnosis of medium severity thyrotoxicosis? Two, did the diagnosis issued by Stern have an influence on the report of the Military Board medical commission, which found him unfit for officer refresher courses?

DEFENSE COUNSEL: I have additional questions for the experts. One, Harmasar's out-patient chart contains entries by two doctors—Stern and Kamenetsky. Did the data in these entries justify the diagnosis of medium severity thyrotoxicosis? Two, are cases of spontaneous recovery from thyrotoxicosis known in medical theory and practice?

STERN: I have a question for the experts. Do the members of the panel agree with the statements in these quotations from translated monographs? I also want to submit a petition. Before the panel of experts begins its work I want to challenge Dr. Olnev. He will naturally defend the opinion he expressed as a member of the previous panel of experts.

JUDGE: What is the opinion of the participants in the trial?

PROSECUTOR: This is another trick by Stern. I object to the petition. Furthermore, the question of challenges has already been brought up and settled.

DEFENSE COUNSEL: I believe that the prosecutor is wrong when he claims that the question of challenging has been settled because this interpretation of the right to challenge contradicts Article 197 of the Criminal Procedure Code of the Ukrainian SSR. Now to the substance of the challenge. Expert Olnev was a member of the previous commission, which has already given answers to the same questions. Olnev's signature is on the report of the previous commission, and I cannot imagine how Olnev could sign a report with new conclusions in a new situation. Olnev is personally interested in having the conclusions of the previous panel of experts confirmed. Hence I believe that the challenge is well-founded, and I support it.

PROSECUTOR: The defense has already introduced a great deal of extraneous material into the court proceedings, including the foreign literature to which the accused Stern is drawing particular attention. I believe that Stern's question whether the experts agree with the quotations from the foreign books is irrelevant. As for Olnev, he expressed his professional opinion in the previous expert report, and he has a right to express it now. We have no reason not to believe him. Hence I object to the petition for challenge.

DEFENSE COUNSEL: I am astonished at the prosecutor's accusation that the defense is citing foreign literature. This is unprofessional and illiterate because we are talking about translations of foreign books which were

published in the Soviet Union and edited by Soviet scientists. This assertion attests to an unworthy attempt to compromise us because of our use of foreign sources. If our scientists use them, then they shouldn't be dismissed merely because they're foreign. If there is something intelligent and serious, it shouldn't be ignored just because it was published abroad. As for the challenge to the expert, it makes great sense to me.

STERN: I had wanted to carry out myself the defense of foreign scientists, including Academician Stefan Milka from the Socialist Republic of Roumania, against the prosecutor. But to my great satisfaction, it's already been done by my defense counsel. The prosecutor's reference to foreign literature is an even greater trick, to use his words, than my challenge to Olnev.

JUDGE: The court will recess.

During the recess, the man evicted from the courtroom begins to bother the Sterns and their friends with various questions about the case, displaying great interest in their plans to lend Dr. Stern moral and legal support.

JUDGE (*after the recess*): The court has reached a decision about the challenge to Olnev which Stern submitted. The challenge is not accepted because Olnev took part in the expert examination from the very beginning with Stern's consent.

DEFENSE COUNSEL: I should like to submit an objection to the prosecutor's second question to the experts. It is phrased improperly because it refers to one doctor. The diagnosis for the Military Board was signed by two people: Stern and the late head physician Britanov. Furthermore, the diagnosis itself was made by two doctors: Stern and Kamenetsky. The report sent to the Military Board included the data of Kamenetsky's examination as well as Stern's.

PROSECUTOR: As for Stern's question to the experts, whether they agree with the quotations from the books, I think that the expert commission is not empowered to evaluate these authors' conclusions. I object to Stern's question.

DEFENSE COUNSEL: To my way of thinking, the quotations have a direct bearing on the panel of experts. We are dealing here with a specific scientific problem. We have a certain conclusion by the previous commission, which Stern is trying to refute by using these quotations. We are asking the experts to tell us whether they agree with the point of view of the scientists to whom we are referring.

OLNEV: I want to make a comment about the defense counsel's questions

whether one or two doctors made the diagnosis. I don't understand why there is talk here about two doctors. After all, the patient was referred to the second specialist by Stern after he had made his diagnosis. The defense counsel's questions are too general and theoretical, and I request that they be phrased more specifically in connection with the given incident.

DEFENSE COUNSEL: My objection to the prosecutor's question to the panel of experts is of a purely legal and not of a medical nature. I believe that a discussion of my objection is not within the competence of the members of the panel of experts. An expert should not get involved in the legal aspects of the case. In fact, the question comes down to this: Harnasar was examined and diagnosed by two doctors, not by one. This is an established fact. I also request that the panel of experts be required to examine only the medical aspect of the case and not discuss the legal aspects in their report.

JUDGE: Having conferred on the spot, the court has ruled to include in the prosecutor's question to the panel of experts a mention of Kamenetsky's participation in making the diagnosis. The court has also ruled not to submit to the experts Stern's question about their opinion of the quotations from the foreign medical literature. Today, we still have ahead of us the rest of Stern's testimony and the report from the panel of experts. I declare a brief recess.

During the recess, the man evicted from the courtroom "confidentially" advises the family that Dr. Stern will receive a sentence of no more than two years if he avoids discussing questions of politics or emigration in his testimony.

STERN (*after the recess*): I shall continue with my testimony. Let me finish my thought about the reasons for instituting proceedings against me. I won't speak any further about the "unknown" persons who broke into my apartment on May 12. I only want to draw the court's attention to the fact that Investigator Kravchenko assured me with childlike naïveté in his eyes that the filing of complaints against me by my former patients between May 14 and 19, immediately after my apartment was broken into, and my son's receiving permission to emigrate, are totally unrelated events. But I am convinced that a previously prepared scenario was being set in motion at this time. I can confirm the investigator's assertion that I began to prepare myself for my arrest after my son received a visa and my apartment was broken into. Expecting the provocations to continue, my wife and I decided to go to

Chernivtsi to avoid being in Vinnytsia. I was arrested when we arrived there. A crowd of militiamen and plainclothes agents broke into the apartment at dawn, heaped threats and insults on me, and began an illegal search. I was arrested and thrown into prison. . . .

JUDGE: None of this has any bearing on the case. Your friends will pass all this on anyway, so there's no need to talk about it. They are speculating about your opinion and receiving royalties for it. So they need this, but the court is not interested and doesn't need this.

STERN: And so I was arrested, and my national and human dignity was insulted. My property and my children's property were confiscated. . . .

JUDGE: Don't enter this into the record. It has no bearing on the case.

STERN: If you know so precisely what has a bearing on the case and what doesn't, please explain to me what bearing my son's personal scientific papers, which were confiscated during my arrest, have on the fantastic crimes of which I am being accused?

JUDGE: It's not for you to pose questions to the court!

STERN: I have already given a detailed explanation of the Harmasar incident. I want to add that I understand why Antonina Harmasar did not tell the court the whole truth. She insisted that she had given me money, denied the fact that I had come to see her together with the late Britanov, denied that she had given the money not to me, but to Maliovana . . .

JUDGE: This is all unimportant. This is your opinion, and it has absolutely no significance.

STERN: For me this is important. It's also important that she clearly confirmed that we came to see her two and a half months after her son was diagnosed. She confirmed that no one had demanded money from her and that she had never seen me before I arrived in Sutisky. It's important that she categorically denied the suggestion that she had paid for the report to the Military Board. It's important that Kamenetsky stated that he is ready to share responsibility with me for this diagnosis, that according to Harmasar's testimony he had been ill for a long time and had been treated for thyrotoxicosis on numerous occasions, and that all this was written down from Harmasar's own words by Dr. Tverdokhlib in 1974.

As for Overchuk, I must say first of all that I don't remember this particular incident among the thousands of similar cases that I treated during that time. I can't remember what hormone preparations I gave and how much money I took for them. I can only affirm that I never made a profit. I did not deceive anyone. I gave him the medication that

he needed, received for it as much money as it cost, and gave him the injections myself.

When inductee Overchuk appeared at the Clinic in October 1972, he was given a diagnosis of severe pathology—hypogenitalism and retarded growth. At the first examination it was established that the sexual development of this fifteen-year-old boy was equivalent to that of a six-year-old. His height was 141 centimeters, and his weight was 33 kilograms. These are Dr. Livshits's entries. Dr. Slobodeniuk treated him after Livshits. Four months of treatment produced no results whatsoever, because judging by his chart, his height and weight on February 19, 1973 were the same as they had been on October 18, 1972. Slobodeniuk referred him to me as a more experienced specialist. I prescribed treatment according to my modification. The drugs could not be obtained in pharmacies at that time. I gave him my own drugs. I personally gave him combinations of hormones. . . . So what I used up in treating him must have been worth the money she gave me. A lot of hormones were used up, costing no less than sixty-five rubles. One injection of combined hormones, which uses up several ampules of various preparations, costs seven or eight rubles, and Overchuk received no less than eight such injections. After months of injecting preparations according to my modification a phenomenal result was achieved. I ask the court to examine the chart. He grew fifteen centimeters and gained fifteen kilograms.²¹ Explaining why the parents had to leave the doctor fifteen or twenty rubles isn't at all difficult. They were paying for the drugs with which I was injecting their children. You'd think that the parents would be pleased and grateful for what I had done for their children. I don't want to say nasty things about Overchuk now. . . .

JUDGE: Of course, it would be awkward to do so in her absence.

STERN: That's not the point. The point is that this decent and honest woman came to her senses. In her testimony in court she stated clearly that she was satisfied with the treatment and had no claims against me. I was very pleased to hear that she hadn't succumbed to pressure. Her testimony at the investigation was obvious slander. Now it is clear that she had been subjected to pressure by Professor Zelinsky's emissaries. At the confrontation, instead of thanking me for curing her son, she said to me: "You were ordered to treat inductees improperly. You are a spy. You were paid to do this." I am very pleased that this simple Ukrainian woman retracted her words here. I should be very grateful to the court if it tried to establish who could have planted the seed of doubt in this woman's mind.

What crime could Investigator Kravchenko find in my actions? I

treated a severe endocrinological disturbance and managed to cure it. I gave this boy's development a vigorous jolt. And now this episode with Overchuk, this common incident in medical practice, has become one of the reasons for my arrest. . . .

As for the incident with Huzhva. I express my profound outrage at the way he was prompted to slander me. Huzhva's inventions remind me of Baron Munchhausen's tales . . .

JUDGE: I am sure that all the participants in the trial know Munchhausen's tales, and there's no need to use this tone in evaluating the witness's testimony. We'll determine what's true and what isn't.

STERN: Since February 1973, Huzhva's wife has been under observation not by me, but by Professor Zelinsky's assistants. They dug up this old incident, "planted" it and threw the witnesses in the way of the investigators so that I could be slandered. I was charged with this episode, which I had completely forgotten, the day after my arrest, when I hadn't collected myself yet, in the form of Huzhva's fantastic testimony. As you have seen, all this testimony is lacking in logic and is riddled with contradictions.

I saw Huzhva all of five or six times when he came to see me with his sick wife. He was often drunk and liked to boast about his success with women. The last time he took a watch that was lying on the desk in my office. I caught him red-handed. Witnesses will confirm this. His parting words were, "You'll remember me, you Yid bastard!" Huzhva was given the green light to settle accounts with me. He was told that he would get any amount he named, and he wasn't ashamed to claim that he had given me five hundred rubles. The case file contains his suit for this amount. The investigation didn't succeed in finding another Huzhva and had to settle for gathering up all the trifles it could find—five, ten or twenty-five rubles at a time.

At the first confrontation, Huzhva declared he had brought me produce worth two hundred fifty rubles, but when everything was counted up, it turned out that he couldn't come up with more than twenty-five rubles. But this didn't stop Investigator Kravchenko from adding a simple little zero and increasing the amount by ten in the indictment.

Huzhva's wife became a second-category invalid at the age of twenty-three. She has postoperative tetany for the rest of her life because of an unsuccessful operation. It's a terrible misfortune, but nothing can be done. This can happen to any surgeon, even a very experienced one. Her parathyroid glands were removed together with her thyroid. I couldn't promise this incurably ill woman anything, nor would I have anything to do with a man as corrupt as her husband.

After a while, Investigator Kravchenko bashfully rewrote Huzhva's civil suit, reducing the amount from five hundred to two hundred and fifty rubles. He decided that this brutish anti-Semite and drunkard who wants to profit from other people's woe and tears would look too bloodthirsty, especially since—to my patients' honor—they could find no one like him. It was people like Huzhva that Heine had in mind when he said, "Put a muzzle on them and they'll bark with their backsides."

I want the court to consider why Huzhva had to wait for four years, why he submitted a statement to the Prosecutor's Office precisely on May 15, why he is the only witness who testifies that he had to pay such large sums for hospitalization. Let me note at once that I have nothing to do with hospitalization. This is decided by the heads of the various hospital departments. Why does he say that he paid me five hundred rubles when all the others say that they brought me "only a chicken"? It was my enemies who suggested to Huzhva how to save Russia and whom to beat for that reason.^{22*}

Professor Zelinsky's group frequently wrote anonymous letters about the Huzhva incident, but they were all shelved and then pulled out at the right time when sanction was given to unwrap a case against me. Huzhva is the only witness for the prosecution to whom I object as a suborned witness who knowingly gives false evidence.

Maria Huzhva answered without hesitation when she was asked here when she had learned that she was incurably ill, "After the operation." She learned immediately after the operation that her parathyroid glands had been removed and that her condition was incurable. So she claims that she knew about this in 1971, that is, before her first visit to me. The first entry I made in her chart when I examined her was the same diagnosis—that she is incurably ill. When Huzhva was asked, "When did you first learn that your wife is incurably ill?" he replied, "You're the first person to tell me this." And yet he claims that he loves his wife.

When Maria Huzhva was asked in court whether she was surprised that Stern didn't examine her, whether he came to see her at the hospital, and whether she complained about this to her husband, she replied clearly, without hesitation, "I was surprised that I was being treated by other doctors, and I complained about this to my husband." This testimony exposes her husband as a liar when he claims that he

* *Beat the Yids and save Russia*. This was the slogan of the infamous Black Hundreds, an anti-Semitic organization of the Czarist era.

gave me money to treat his wife. Any unprejudiced person will be able to see that this is slander. It isn't logical that Huzhva gave a doctor money for two years while his wife was in a hospital where this doctor doesn't work. Huzhva says, "Everytime I went to see him Stern demanded money from me, and I gave it to him." Huzhva knew that I had nothing to do with his wife's treatment. Then why did he give me money? After all, the hospital has its own doctors and its own director. What does Dr. Stern have to do with this? A grown intelligent man pays money for nothing for two years? Only someone who wants to believe it would fall for this stupid lie.

Huzhva says, "When he met me, Stern would say that my wife needed to become pregnant." I request the court to examine the chart. The entry for February 8, 1973. Maria Huzhva came to see me for the last time that day, but she became pregnant in August 1973, after she had begun to be treated by Professor Zelinsky's assistants. Huzhva's chart contains an entry on April 3, 1974 by Dr. Lysova, a highly qualified gynecologist: "Pregnancy in eighth month now, delivery expected May 15, 1974. Pregnant without consultation with endocrinologist—did not ask whether she can give birth." Her husband is deliberately lying for the sole purpose of slandering me when he claims that I advised a patient to become pregnant when there were contraindications.

JUDGE: The court will recess briefly.

The friendly contact between the man evicted from the courtroom and the members of the Stern family is broken off by the latter when they discover that the man is working for the KGB and that the scene where he was demonstratively removed from the court was specially staged to instill trust in him.

STERN (*after the recess*): Concluding with the Huzhva episode, I want to say a few words about anti-Semites. . . .

PROSECUTOR: Comrade Judge, what's the point of this?

STERN: Nobody can gag me. This is an open trial, and I have a right to speak my mind on this subject. I protest against this monstrous anti-Semitic slander. . . .

JUDGE: Perhaps you could speak a little more slowly because your friends are writing this down. They have to pass it on.

STERN: Lenin said, "Shame on those who sow hatred toward Jews." I have a profound respect for the splendid and hard-working Ukrainian people, and I believe that Huzhva and those who are hiding behind his

back are busy sowing anti-Semitism in Ukraine. I want to say that history knows precedents where false testimony was given at anti-Semitic trials. The witness for the prosecution at the Beilis trial was Cheberiak. At the Doctors' Trial in 1952 the case for the prosecution was based on the false testimony of Dr. Timoshchuk.²³ Later she was rewarded with a Lenin Prize. But history shows that such people meet an infamous end. I did not wish the sudden death of thirty-six-year-old Dr. Koliada, who signed the false expert report in my case, but my deeply religious wife believes that it was God's retribution.

Comrade judges, I am fully aware of the forces that created the case of Dr. Stern. But I am also relying on the court's courage, which can put an end to this farce of lies and open outrage against the humane principles of medicine.

JUDGE (*after a long pause*): The report of the medicolegal experts' panel will now be read.

OLNEV (*reads an excerpt from the text of the report*): The panel consisting of Olnev, chairman, and Professor Yefimov, Senior Lecturer Andrienko, and Dr. Kuperman, members, has come to the following conclusion:

1. Thyrotoxicosis is a chronic disease, but medical literature and clinical data give grounds for asserting that occasionally cases of spontaneous recovery from medium severity thyrotoxicosis do occur.

2. The clinical picture described by Dr. Stern is not sufficiently convincing to establish the presence of medium severity thyrotoxicosis in Harmasar in June 1968, but it does give grounds for ruling that Harmasar had thyrotoxicosis of the first degree.

Cries of astonishment in the courtroom.

DEFENSE COUNSEL: Was Harmasar given any laboratory tests today?

OLNEV (*greatly agitated*): Very recently, on orders from the previous panel of experts, Harmasar was examined by the iodine diagnosis method. That was on September 4, 1974. We used those results today.

DEFENSE COUNSEL: Did the panel of experts today have at its disposal the data of the basal metabolism test performed at the Pyrohove Hospital two weeks ago?

YEFIMOV: We did not have the data of the basal metabolism test performed at the Pyrohove Hospital at our disposal. I might add that as practicing physicians we really don't attribute any conclusive diagnostic significance to the results of this method. Where other methods are unavailable, however, this method continues to be used as before. But if the

basal metabolism test produces results which do not correspond to the clinical symptoms, we do not make it the cornerstone of the diagnosis. Clinical symptoms always come first.

DEFENSE COUNSEL: In response to our inquiry we should receive a document from the Pyrohove Hospital about Harmasar's basal metabolism test during the preliminary investigation. I request that it be read into the record and filed with the case.

JUDGE: That's not necessary. We shall acquaint ourselves with it in chambers.

STERN: Please announce the answer.

The JUDGE rummages in his papers.

DEFENSE COUNSEL: I insist that the document be read into the record. I have also received an official reply from the Institute of Endocrinology and Hormone Chemistry at the Academy of Sciences of the USSR, which contains answers to questions I submitted. The Institute replies that the diagnosis of medium severity thyrotoxicosis made by two doctors, a therapist-endocrinologist and a neuropathologist-endocrinologist, judging by the entries in the patient's chart made by doctors Stern and Kamenetsky, in the opinion of the scientists at the Institute of Endocrinology and Hormone Chemistry at the Academy of Sciences of the USSR, was justified. Please file this with the case.

JUDGE: Very well.

DEFENSE COUNSEL: Have you found the document from the Pyrohove Hospital? Please announce it.

JUDGE (*nervously grasping a piece of paper and rapidly reading from it*): I announce: "On August 20, 1974 a basal metabolism test was performed on Harmasar at the Pyrohove Hospital. The result was 67 percent."

STERN: That means he's still ill!

DEFENSE COUNSEL: A question to Stern. The result is 67 percent. Does this say anything about thyrotoxicosis in Harmasar in 1974 or doesn't it?

STERN: The norm for the basal metabolism test should be 10 percent. The upper limit of the norm is 15 percent.

DEFENSE COUNSEL: The medical data presented in court not only completely refute the conclusions of the first expert examination, which was conducted during the preliminary investigation, but also reveal that false testimony was knowingly given. The medicolegal expert examination conducted during the preliminary investigation not merely ignored, but actually concealed the results of Harmasar's basal metabo-

lism test on August 20, 1974. This cannot be explained away as ignorance on the part of the experts. This is a deliberate crime! Thus we have sufficient reason to institute criminal proceedings for perjury against expert Olnev, whose signature is on two different medicolegal conclusions, which contradict each other.

JUDGE: The hearing is adjourned.

The tension in the courtroom is mounting. It can be sensed both in the Judge's behavior and in the sharply increased number of plainclothesmen, who now begin to tail Dr. Stern's family and friends both in the courthouse and afterwards, on the streets.

THURSDAY, DECEMBER 19, 1974

Day Seven of the Trial

The Judge's bench is empty. The prosecutor and the defense counsel are immersed in their papers. A lame old man walks up to the railing and tries to reach over to shake Stern's hand. Stern gives him a good-natured smile. The guards begin to push the old man away, and a tragicomic squabble breaks out. The Judge and the People's Assessors walk into the courtroom just at this moment.

LAME MAN (*not noticing that the JUDGE has entered*): How can they do this to such a man? He saved my life. May God be with you, doctor. . . .

JUDGE: What's going on? What do you want?

LAME MAN: I want to give the doctor my best wishes.

JUDGE: Take your seat at once or you'll be evicted from the courtroom! (*To a militiaman.*) I want order here!

LAME MAN, *his wooden leg thumping, returns to his seat.*

JUDGE: Accused, you may continue with your testimony.

STERN: Well then, yesterday I commented about the episodes of alleged swindling and showed that the alleged victims are not victims at all because I didn't swindle any of them. The overwhelming majority of witnesses thanked me and stated that they had no claims against me. I am very grateful to these simple people for not submitting to the pressure the investigator applied to them and for retracting the state-

ments entered in the records of the preliminary interrogations. The representative of the prosecution must be very surprised now that the Huzhva episode has collapsed on its own. Examination of witnesses and a comparison of their evidence with what the investigator wrote down has convincingly demonstrated that Investigator Kravchenko is a bigot and a Pharisee. . . .

JUDGE: Accused, the court cautions you not to use such expressions again!

STERN: I want to emphasize that despite the fact that dozens of investigators and emissaries of Zelinsky worked the witnesses over, an average of only four people a year was found to whom I gave assistance in obtaining hormone preparations. And all of them—those who were treated in time—testify that the treatment gave positive results. These diseases had to be treated immediately and without interruption. This is particularly important during the period of adolescent sexual development. These patients had to be treated immediately, and I believed that it would have been criminal to wait until the necessary drugs appeared in the pharmacies. That is why I tried, to the extent that I could, to supply at least some of the patients with the necessary drugs. This, and not a craving for profit, is the reason that I obtained the drugs.

Where did I obtain the drugs? Kravchenko's claim that I supposedly bought the drugs at pharmacies—where they weren't available, by the way—is based on rumors spread by my enemies. I draw the court's attention to Volynkina's testimony. She testified that she was treating her grandson and that she was sent choreogonin, which is in scarce supply, from another city. The grandson got well. Volynkina had two boxes with ten ampules in each left. She sold these two boxes to me for 15 rubles, although the official price is 5.75 rubles. These drugs were not available in pharmacies. But there were people who had these drugs and didn't need them. Other people had drugs whose expiration date was approaching. But there were other people who had a vital need for them. I believed that it was my duty as a physician to help.

Let me now discuss the episodes of bribery. I do not admit guilt in any of them. In thirty years of practice I never made medical assistance conditional upon a reward. I didn't need this money because I had a private practice. Perhaps this runs counter to certain financial instructions, but it is certainly not a crime.

I shall begin with the Manzhievsky-Rybachuk episode. The prosecution presupposes that I was paid twenty-five rubles to admit their mother to the hospital. But my innocence in this case can be established merely by examining Liubetsky's chart. As the director of the Outpatient Clinic of the Health Center, I had the right to permit the patient to

be registered at the admissions desk without a referral. I always did this and never refused a single patient. Liubetsky's two daughters came to me on April 20, 1972 with a request to have their mother admitted for treatment. I granted their request. My words are confirmed by the entries in the chart, but they completely contradict the evidence of Manzhievsky and Rybachuk. The chart contains data from an examination of Liubetsky not by one, but by three different doctors at the Health Center. I don't know why both witnesses stubbornly claim the opposite in court, alleging that their mother was examined only by me. The entry for the examination by Dr. Hamarnyk, the therapist at our Health Center, indicates a precomatose condition, which means that the patient had to be hospitalized immediately. It was Dr. Hamarnyk, and not I, who wrote on the chart: "Hospital treatment essential." I don't have the right to hospitalize patients, and I think that this will be confirmed by head physician Urbansky.

JUDGE: How do you know? Why are you so certain that he will confirm this? You keep saying that witnesses will testify in such and such a way. I advise you not to do this. In the end this can suggest that there's some sort of conspiracy with the witnesses.

STERN: I am merely saying that according to Health Center regulations hospitalization is not included in my duties. I know my duties. Urbansky knows them too. My case file contains a statement by the children of the late Liubetsky, dated May 3, 1972, which states that I did not take any money from them and that they can confirm this in court. In May 1972, yet another attempt to discredit me was made . . .

JUDGE: When in May?

STERN: I think that it began the day Liubetsky died—on April 29. There was gossip that I had taken money from the children of the deceased, Manzhievsky and Rybachuk. Zelinsky and his company openly told Urbansky about this.

JUDGE: Who specifically told him?

STERN: Zelinsky's assistant Kohut. But all of them, Zelinsky and his assistants, seized on this. They were always complaining about me. This happened many times, but in this case they complained about me officially. Urbansky called me in for a talk about this. I told him that this was dirty slander and that I had decided to take it to court. I demanded that the head physician summon the relatives of the late Liubetsky. By the way, Liubetsky died because of the ignorance of the staff at the Medical Institute. I can prove this if it's necessary. The case history exists. At that time I didn't want to bring up this question for professional reasons. One of the sons-in-law of the dead woman

showed up, and we had a talk in Urbansky's office, in his presence. I said that I was bringing an action for slander and demanded that they appear in court. Liubetsky's son-in-law said that the family had no claims against me. A day later he came back with the signed statement, and we went to see the head physician together. Urbansky again asked him whether they had given Stern money and received a negative reply. Unfortunately, I let myself be dissuaded by Urbansky and did not take these slanderers to court. I kept the statement, but it was confiscated during the search. Apparently it was in the case file all this time, but I wasn't asked about it during the preliminary investigation, and I was not allowed to have a confrontation with the witnesses despite my demands.

JUDGE: This isn't important.

STERN: No, this is very important. I emphasize that I took that statement with the knowledge and permission of Dr. Urbansky. Liubetsky's son-in-law said then that they could all come to court and confirm their statement.

I request that another witness be summoned. This is witness Lomoviz, who wrote a statement just as Liubetsky's relatives did, at the same time, and this statement has the same origin. In the same way, Kohut and Zelinsky told the head physician that I had taken money from Lomoviz for putting him in the hospital. Lomoviz sharply repudiated this slander against me and, being an honest man, never started claiming the opposite, as Rybachuk and Manzhievsky have been doing.

As for the money, I am not attempting to claim that Manzhievsky and Rybachuk are lying when they say that they put money under a piece of paper on the desk, although I have every reason to think so. I know for a fact that I did not take this money and never saw it. Perhaps they did put the money there, although this seems improbable to me. At that time we had an orderly working at the Clinic whom we later fired for stealing petty cash. Her job was cleaning the rooms, and if the money really was there, she could have easily found it and taken it.

Attempts have been made here to make it seem that I specially sent some woman to Liubetsky's family to get a statement. This is an absolutely groundless concoction.

JUDGE: Please explain the origin of this note which was sent to us from prison. Your handwriting in green ink covers the middle of the sheet: "My people will go see Manzhievsky and Rybachuk."

STERN: I admit that I wrote this and that I did it deliberately, but with a completely different aim. When I wrote this, I fully expected that this

slip of paper would get to the court and be read aloud. If I had had a different purpose, I should have written these words on a scrap of paper in tiny letters. I deliberately selected such an intriguing text. I deliberately wrote it in green ink, although I wrote all my other notes in blue and red ink. I did everything I could to have the note seen and confiscated by those who have been illegally going through my notes in prison so that this could become known in court. The fact is that I frequently protested against the illegal confiscation of my notes in prison. I protested against the frequent searches, against the thorough examination of all my notes, statements and complaints. There were incidents when all my papers were taken away from me for five or six days, in violation of all the laws, and someone even made notes on them with a red pencil. All my preparations for the trial were known in advance to the Prosecutor's Office. I have not been convicted yet, and no one is permitted to violate my civil rights, even in prison! I deliberately wrote the note so that it would be brought to court, and I should like the court to explain how, who, in what fashion, when, and with the aid of what official procedures submitted this paper as evidence. I categorically protest against the violations that occurred during the investigation, and I request the court to take the proper measures.

JUDGE: The court's reaction . . . uh . . . to such requests . . . uh . . . does not have to come now. It will . . . uh . . . come later.

One of the guards assigned to spy on the notes Stern makes during the trial stares so hard he loses his balance and falls like a tin soldier from the platform to the floor. The accused extends a hand to the guard, although there is no need for this—the guard immediately jumps up, burning as he is with embarrassment.

PROSECUTOR: Comrade Chairman, I request permission to see what notes Stern is using.

DEFENSE COUNSEL: Stern asked me to make a copy of my notes for him. I gave them to him.

PROSECUTOR: Did you have the court's permission for this?

DEFENSE COUNSEL: I don't have to ask the court's permission for this. Stern didn't finish making his notes because he was given very little time to become acquainted with the case. Stern said that he'd be forced to postpone the trial if he didn't have them. I believe that I have the right to give my client my notes on the case material.

PROSECUTOR: If these were simply notes for preparation for the trial, then that's one thing. But if these are notes which Stern uses to give

explanations, then they must be examined, because this may be a violation of the law.

DEFENSE COUNSEL: The fact that Stern has notes testifies that he has the right to a defense. Restrictions on his use of notes will violate this right. What he has is excerpts from the case. It would be wrong for you to deprive him of these notes.

PROSECUTOR: If he has notes by outsiders about what he should say in court, then this is against the law. I request the court to examine all his notes.

DEFENSE COUNSEL: If the prosecutor requests that Stern be searched, then I request that this be entered into the record. I also request that this search be conducted during the court proceedings and not during an adjournment. A proper record must be drawn up.

JUDGE: Please give me all your notes.

STERN: All my papers?

JUDGE: Yes.

DEFENSE COUNSEL: I want to explain. Stern told me in prison that he had been given only two days to become acquainted with the case and that he didn't have time to make notes. That's why I gave him my own.

JUDGE: It would have been better if you had informed me about this.

DEFENSE COUNSEL: I gave him what I had written out for myself and consider that I saved the court several days.

JUDGE: Who wrote these remarks in ink at the bottom? This isn't Stern's handwriting. Is this your handwriting?

DEFENSE COUNSEL: No.

JUDGE: Whose is it?

STERN: A friend of mine was helping me in prison.

JUDGE (*to the DEFENSE COUNSEL*): Did you type these excerpts?

DEFENSE COUNSEL: A typist did.

JUDGE: What is the name of the prisoner who helped you?

STERN: I don't know.

JUDGE: What cell is he in?

STERN: I don't know.

JUDGE: What is he in for?

STERN: Article 206, I think.²⁴

JUDGE: There are notes here at the bottom of the page about Makovei: "Why twenty-five rubles? Private practice." About Beznosiuk and Taranov: "Why money?" in the same handwriting. About Overchuk it says here: "Humor. Locked the door while with a patient. Danger of rape." And then another entry: "Chernetsky—autumn?" All in the same handwriting. The court has no objection to your using this. But

we have established that someone other than your defense counsel is helping you. I declare a recess for lunch.

After the recess.

JUDGE: We shall continue to examine witnesses.

WITNESS ANNA KALYNA, BORN 1928, COLLECTIVE FARMER

FROM THE INDICTMENT:

On April 9, 1973, Vasyl Kalyna and his mother Anna Kalyna arrived at the Health Center to see Stern. Stern undressed the son in his mother's presence, showed her the boy's sexual organ, and promised to cure him, but demanded money for this. Kalyna was forced to give Stern fifteen rubles.

KALYNA: My son Vasyl was summoned to the Military Board in Kalynivka and from there referred to the Health Center in Vinnytsia. Vasyl came back and said that he needed money for injections and drugs. I took some money and went with him. We went in, and my son undressed. The doctor examined him and said, "The boy is ill. He needs treatment." He prescribed powders and injections. We got them at the pharmacy. I put fifteen rubles on his desk.

JUDGE: Did you have any other money with you?

KALYNA: I paid twelve rubles at the pharmacy.

JUDGE: Where were the injections given?

KALYNA: At our hospital.

PROSECUTOR: What is the name of the drug that he was given?

KALYNA: I don't know what it was called. I'm ignorant and illiterate.

PROSECUTOR: Did you yourself give the money that the doctor told you to give?

KALYNA: I put it down myself.

PROSECUTOR: There's a discrepancy here with the record of the interrogation. At the investigation you testified that when you went into the office the doctor told you to look at his sexual organ. "Then I unwrapped a handkerchief and gave him the fifteen rubles that he asked for."

KALYNA: Do you think that I can remember how it happened? I don't remember.

PROSECUTOR: A question to Stern. Did you receive fifteen rubles?

STERN: I don't remember this incident.

DEFENSE COUNSEL: Did the doctor tell you to give him fifteen rubles? Or perhaps he asked for more or less than that amount?

KALYNA: No, he didn't say anything to me. I decided myself to give him fifteen rubles.

DEFENSE COUNSEL: Were you received immediately, on the same day?

KALYNA: Yes, the same day, but there were a lot of people waiting to see the doctor.

STERN: Is your son in good health?

KALYNA: Yes, he is.

JUDGE: Did your son have treatment before he went to Stern?

KALYNA: I think he applied.

JUDGE: You must have been embarrassed to have your son undress in front of you.

KALYNA: No, it had to be done.

JUDGE: But you still must have found it unpleasant to have your son undress in front of you.

KALYNA: He's a doctor. It had to be done.

JUDGE (*irritated*): Did the doctor show you your son's sexual organ?

KALYNA: Well, he lowered his shorts.

JUDGE (*to IDA STERN*): Why are you smiling? Why are you smiling?

IDA STERN: Is even smiling forbidden?

JUDGE: We'll evict you from the courtroom if you interfere with us.

PROSECUTOR: Why was it necessary to send the patient to bring his mother and warn him to take money after you had examined him?

STERN: I had to get expensive preparations. The boy was fourteen.

JUDGE: You're avoiding the question.

STERN: No, you're avoiding my answer.

PROSECUTOR: What are you supposed to do after you examine a patient?

STERN: Make a diagnosis and prescribe treatment.

PROSECUTOR: There's no diagnosis in the chart.

JUDGE (*reading*): "Diagnosis: hypogenitalism, severe form, retarded growth and physical development." There is a diagnosis.

PROSECUTOR: Yes, excuse me. Explain why he had to be examined again in his mother's presence.

STERN: The boy was fourteen years old. His mother had seen his sexual development when he was very little. It was my duty to inform his mother about this.

JUDGE: Do you believe that you were right to do this, even though you had already examined him?

STERN: We always do this in these cases.

JUDGE: Do other doctors besides you do this?

STERN: I don't know. Ask them. I always did this and will continue to do this.

JUDGE: "Five" has been changed to "nine" here in the entry. The entry says, "Sexual development of a nine-year-old."

PROSECUTOR: Why was this changed?

STERN: I could answer this question, which is worthy of the Middle Ages, but it was not I who changed the entry. But then it has absolutely no significance. What is significant is that I didn't take any bribes from her. It's significant that despite my requests I wasn't permitted to have a confrontation with her. The most important thing is that after the treatment her son got well.

WITNESS MARIA SHEVCHUK, BORN 1929, COLLECTIVE FARMER

FROM THE INDICTMENT:

On March 9, 1973, citizen Maria Shevchuk and her son Ivan Shevchuk, who was suffering from hypogenitalism, arrived at the Provincial Endocrinological Health Center. Shevchuk gave Stern ten rubles for receiving her son without a referral from the regional hospital. After taking the money from Shevchuk, Stern gave her to understand that this was not enough: "You're stingy," he said and suggested that she come back again. But Shevchuk left Stern's office. Having heard unpleasant stories about Stern from other patients, she did not go back to him.

SHEVCHUK: I don't remember what year this was. My son Ivan is very small in size. I was told that I had to go see Stern in Vinnytsia. Well, I went there and found Stern at the hospital. He didn't send us away. He examined my son and prescribed treatment.

JUDGE: Did you give him anything?

SHEVCHUK: What could I give him? I paid for the drugs, and that's all.

PROSECUTOR: Did you thank him?

SHEVCHUK: Yes, I thanked him for seeing us.

PROSECUTOR: Did he ask you to give him money?

SHEVCHUK: No. He kept saying, "You don't have to, you don't have to," but I put down a ten-ruble note and left.

PROSECUTOR: Did you have your son treated before this?

SHEVCHUK: No.

PROSECUTOR: Where did your son have the treatment?

SHEVCHUK: At our first-aid post.

PROSECUTOR: A question to Stern. On what basis did you receive them without a referral?

STERN: As the Director of the Outpatient Clinic, I have the right to receive them without a referral. As a doctor, I am obliged to see anyone who asks me.

PROSECUTOR: Why did you take money from the witness?

STERN: Why do you say "why" if I haven't said yet that I took it?

PROSECUTOR: But the witness said that you took it.

STERN: But that was only the witness.

DEFENSE COUNSEL: Did the doctor tell you that you hadn't given him enough money?

SHEVCHUK: That didn't happen.

DEFENSE COUNSEL: He didn't tell you that you were stingy, did he?

SHEVCHUK: No.

DEFENSE COUNSEL: Did he give your son an injection the first time?

SHEVCHUK: I don't remember.

DEFENSE COUNSEL: In your preliminary evidence—volume 3, case sheet 135—you said: "He examined my son, gave him some sort of injection, and wrote out a prescription."

JUDGE: Why have you told it differently then?

SHEVCHUK: I can't remember what happened yesterday, and here so many years have gone by.

STERN: Do you have any claims against me?

SHEVCHUK: None at all.

PROSECUTOR: Did people say anything to you in the courtyard of the Health Center?

SHEVCHUK: No, nothing happened there.

PROSECUTOR: But what did you testify at the preliminary investigation?

JUDGE: The prosecutor is not asking you this question by chance. You said, "When we left his office some woman told us not to go see him anymore."

SHEVCHUK: There was some woman near the train station, but I don't remember exactly.

PROSECUTOR: Do you know Zelinsky?

SHEVCHUK: No.

WITNESS FEDIR SOROCHUK, BORN 1925, COLLECTIVE FARMER

FROM THE INDICTMENT:

On February 19, 1971 Stern received a referral from the Military Board for inductee E. Sorochuk and, in the presence of Sorochuk's father, Fedir, prescribed drugs and suggested that they come back to him after they had obtained the drugs at the pharmacy. When the Sorochuks came back to Stern with the drugs, Stern sent the son out of the office and demanded thirty rubles from the father. When Sorochuk told Stern that he had only twenty rubles left, Stern told him to hand over this money and to bring the rest later. Leaving himself one ruble for the road, Sorochuk gave Stern nineteen rubles and later passed on another eleven rubles through his son.

SOROCHUK: He examined my son in 1971. He wrote out a prescription for me, and I got thirty rubles' worth of drugs at the pharmacy. Then he said that I ought to give him thirty rubles because he was a good doctor. I had only eighteen rubles with me. I gave him seventeen rubles and left one ruble for the road. My son went to see him two more times and brought him thirteen rubles.

JUDGE: Did Stern make any injections in your presence?

SOROCHUK: No, he didn't.

DEFENSE COUNSEL: You said that the doctor saw your son two more times without you?

SOROCHUK: Yes.

DEFENSE COUNSEL: I have a question for Stern. Do you remember this incident?

STERN: I don't remember this incident because it never happened. I want to ask in turn—who taught you to say this?

SOROCHUK: I'm telling the truth. I . . . No one taught me.

STERN: Do you know that Stern will be put in prison because of your testimony?

JUDGE: I strike the question.

STERN: Questions can be easily stricken, but the answers to them won't change because of that. I categorically deny this testimony. This is a dirty fabrication without any foundation or proof.

JUDGE: Accused, the court reprimands you. We forbid you to use such expressions.

STERN: I think I'd find it easier to believe that I'm a spy than that I could have told a patient to give me money because I'm a good doctor. Let me draw your attention to one detail which demonstrates the falseness of

this testimony. This is the boomerang that has destroyed the lie instead of reinforcing it. Not trusting the peasant's weak memory, the investigator forced him to memorize that I had demanded thirty rubles from him. To make it sound plausible—nineteen rubles the first time and eleven the second. That's in the indictment. But lies are difficult to keep straight. The witness became confused. And now there's a new variation in court: seventeen rubles the first time and thirteen the second, the sum again being thirty. Hurrah, hurrah, Investigator Kravchenko! At least he taught the witness the first part of the tale properly.

JUDGE: Accused, I am giving you a reprimand again! (*To the CLERK OF THE COURT.*) Enter a reprimand to him in the record.

STERN: You can write everything down. Paper can take anything. But if it could burn with shame, I think that many of the papers on your desk would burst into flames.

LAME MAN (*from the courtroom*): He's right, you know! (*Begins to applaud.*)

JUDGE (*hysterically*): I won't allow this! Get out of here! (*To a militiaman.*) Take him out of here at once! Don't you dare let him come back!

LAME MAN: Why are you shouting at an old man? I wouldn't want to come back myself. (*From the door.*) God grant you health, doctor!

The militiaman pushes the old man out the door. Two plainclothes agents quietly stand up and follow him. The incident is closed, but excitement and a painful euphoria continue to fill the courtroom for a long time.

WITNESS MAKAR TEREHAILO, BORN 1926

FROM THE INDICTMENT:

On November 12, 1971 Makar Terehailo and his sick daughter Nadia Terehailo were referred by the Tulchyn Regional Hospital to Stern, who examined the daughter and suggested that her tonsils be removed. After that was done, Terehailo went back to Stern with his daughter. Having heard from patients in the waiting room that Stern received patients only if he was given twenty-five rubles and having himself been convinced of this by Stern's behavior, who had frequently evicted them from his office before this, Terehailo obtained ten rubles, which he handed to Stern when he went in to see him. Stern took the ten rubles and said, "All right, you'll give me more when you have it." Terehailo promised to bring more and the next day gave him another fifteen rubles.

Without giving Terehailo any advice about his daughter's illness, Stern told him that his daughter was grown up and should get married and sent them home.

FROM THE PRELIMINARY INVESTIGATION:

Volume 5, case sheets 73-74

TESTIMONY BY NADIA TEREHAILO

I don't know whether my father paid Stern. . . . He left me in Vinnytsia and went home. I know that after my mother's funeral we didn't have any money. There was only two rubles left.

TEREHAILO: My daughter became ill after my wife died. She was taken to the hospital in Tulchyn. She was ill six weeks, then eight weeks, then the whole winter. She stopped going to school. She was taking injections and pills, but nothing helped. I said to the doctors, "You have to help me. She's dying." So then they referred me to the Health Center in Vinnytsia. I went with my little girl. She's fourteen. I was sitting in the corridor, waiting to see Stern, when I saw a woman open her purse and take out twenty-five rubles. "He has to be paid," she said. I went in and said that my wife had died and now my daughter would die. I thought I'd give him at least ten rubles. He didn't say, "Give it to me." He said, "It's all right. We'll settle later." I went home, and the doctor got her a place to stay for the night. The next day I brought him another fifteen rubles. But he said that my daughter was in the hospital already. Why should I give him money then? I thought.

JUDGE: Why give him money indeed, if your daughter was in the hospital? After all, you didn't have any money, did you?

TEREHAILO: But this was twenty-five rubles, and if my daughter died, I'd have to pay three hundred rubles for the funeral.

JUDGE: How is it that they kept her at your hospital for four months and didn't notice the diseased tonsils?

TEREHAILO: I have no idea where our doctors were looking! Stern noticed them at once. Her tonsils were removed, and she was accepted back in school.

JUDGE: Then why did you give him money?

TEREHAILO: It's difficult to get to such a doctor from the village. And I had come to see him and not anyone else. I'd get the money somehow, I

thought. I had sold half a cow, and there was still the second half. So I gave him the money.

PROSECUTOR: The accused says that Professor Zelinsky talked you into giving such testimony.

TEREHAILO: I don't know about anything of the sort.

PROSECUTOR: A question to Stern. Is the witness speaking the truth?

STERN: No, he isn't. There was no reason to give me money.

JUDGE: Did you accept money?

STERN: I did not. And I couldn't have been so foolish as to tell a fourteen-year-old girl that she ought to get married. The falsification of evidence at the investigation no longer astonishes me, but as a sexopathologist I am beginning to have serious doubts about the sexual health of Investigator Kravchenko.

JUDGE: Stern, are you thinking about what you're saying?

STERN: I always think about what I say, and I always say what I think. Only a pathological disposition can transform ordinary medical assistance into a crime and make a banal medical examination into a cynical and immoral act.

THE BAIDA INCIDENT

FROM THE INDICTMENT:

While he was treating Stepan Baida in February 1972, on the pretext of rendering assistance in obtaining "expensive foreign" drugs which "only he has," Stern extorted 80 rubles for three injections of sustanon, a box of testosterone propionate, a box of methindrostenilon, two boxes of apilac, and a vial of thyroidin, with a total worth of 9.76 rubles, pocketing a profit of 70.24 rubles.

WITNESS STEPAN BAIDA

BAIDA: I came the first time with my father. At first I went to the hospital, then to Dr. Stern's apartment. He gave me injections, at first once a week, then twice a month. I went to see him for a long time. The first eight injections were given at the Health Center. This lasted about two months.

JUDGE: The injections you had at the Health Center—did the doctor give them himself?

BAIDA: He gave them himself about five times out of eight.

JUDGE: Where did you get the drugs?

BAIDA: My father bought it.

PROSECUTOR: How many times did your father come to Vinnytsia?

BAIDA: I don't know.

PROSECUTOR: Who wrote out the prescriptions?

BAIDA: The doctor.

DEFENSE COUNSEL: Did you take anything other than the injections?

BAIDA: I took pills at home.

DEFENSE COUNSEL: Did you pay the doctor money?

BAIDA: I did not.

STERN: Are you in good health?

BAIDA: Yes.

STERN: Do you have any claims against me?

BAIDA: No. I'll remember you for the rest of my life.

WITNESS JOZEFA BAIDA

BAIDA: This is the first time I've seen the accused. My son was referred by the Military Board for an examination in Vinnytsia, and he went with his father. I know that when he went the first time the doctor examined him and prescribed treatment. Later my son went for injections and took powders at home. My husband paid fifty rubles at the pharmacy for the drugs.

JUDGE: But how did you testify at the preliminary investigation?

BAIDA: I said exactly the same thing. And then the second time my husband paid the pharmacist thirty rubles. The doctor himself gave my son the injections.

PROSECUTOR: But how did you testify at the preliminary investigation? What did you pay the doctor?

BAIDA: Not the doctor, the woman pharmacist.

JUDGE: Your testimony states that your husband went to the pharmacy with the doctor.

BAIDA: I don't know about anything of the sort.

DEFENSE COUNSEL: Did your husband say that he gave the doctor produce?

BAIDA: He didn't take anything from home, and he didn't say anything.

STERN: Has your husband told you the condition your son was in when he came to see me?

BAIDA (*bursts into tears*).

JUDGE: Why are you crying?

BAIDA: My son was a cripple, and he cured him.

JUDGE: Then why are you crying?

BAIDA: We're grateful to the doctor.

JUDGE: That's what doctors are for, to cure people. In our country they're given a free education for that purpose.

STERN: How long did I treat your son?

BAIDA: Two years.

STERN: Did you during those two years give me money or produce even once?

JUDGE: Strike the question.

BAIDA: No, we didn't. I was ill and couldn't go to thank him. (*Sobbing*) Why did you imprison Dr. Stern? He saved our children. Set him free! Let him go on treating and saving people.

The day's proceedings end late in the evening. Outside, in the dim glow of the streetlights, wet snow beats against the tiny windows of the police wagon waiting for Dr. Stern. Despite the late hour, a huge crowd has tightly circled the prison van and the double file of militiamen through which Stern will have to pass. Anxiety and fear are written on the silent faces. A heavy, deathly silence reigns. When the police wagon gives off a metallic screech and lumbers into the night, the crowd continues to stand rooted to the spot. Finally, still not uttering a word, strangers to each other, the people slowly drift away like shadows. Darkness and gloom settle on the city.

FRIDAY, DECEMBER 20, 1974

Day Eight of the Trial

Before the day's proceedings begin Victor Stern finds militiaman Ivanov talking to witnesses who are waiting to be examined. They are listening with mouths agape as he explains how Dr. Stern concealed gold in the engine of his car and how it was discovered during a search. Victor Stern informs Judge Orlovsky about this.

JUDGE: For your information, there are almost no witnesses today. Everything has been shifted about, and that is why the witnesses are being held up. For the most part they have been summoned for Monday. We now begin an examination of the Nechyporuk episode.

FROM THE PRELIMINARY INVESTIGATION:

Volume 2, case sheet 161

September 23, 1974

A STATEMENT TO THE PROSECUTOR'S OFFICE

When you investigate the case please summon me as a plaintiff and exact the thirty rubles that Stern deceitfully obtained from me.

Anna Nechyporuk

WITNESS ANATOLIY NECHYPORUK, BORN 1954, WORKER IN VINNYTSIA

NECHYPORUK: I went to the Endocrinological Health Center in 1968 for a report. I never was called into the army.

JUDGE: Why not?

NECHYPORUK: Diabetes.

PROSECUTOR: Were you treated by Stern?

NECHYPORUK: No, I wasn't. I saw him once.

PROSECUTOR: Did he demand money?

NECHYPORUK: No.

DEFENSE COUNSEL: How many times did you see Stern? And what other doctors did you see?

NECHYPORUK: I saw Zelinsky once.

STERN: How did you get to Zelinsky?

NECHYPORUK: There were talks with the doctors. They advised me to go see Zelinsky.

STERN: What doctors, from what hospital?

NECHYPORUK: I don't remember.

STERN: From our hospital or from another one?

NECHYPORUK: I don't remember. I think I may have been told at yours.

JUDGE: Did your mother say anything about giving Stern money?

NECHYPORUK: No.

STERN: Who filled out your chart when you went to see Zelinsky?

NECHYPORUK: Zelinsky himself.

PLAINTIFF ANNA NECHYPORUK, HOUSEWIFE FROM VINNYTSIA

NECHYPORUK: My son Anatoliy, who was born in 1954, is ill.

JUDGE: Ill with what?

NECHYPORUK: I still don't know. The Military Board referred us to Stern. The Military Board didn't call him into the army and still hasn't called him even though he's twenty. (*Bursts into tears. She is brought a chair and a glass of water.*)

JUDGE: Well, what did Stern tell you?

NECHYPORUK: The first time the doctor said he'd treat him. He said that injections were needed. I gave him thirty rubles. But I didn't come back for the drugs. (*Weeps loudly.*)

PROSECUTOR: Were you registered when you went to see Stern?

NECHYPORUK: I don't remember. I think we were. We had a chart.

PROSECUTOR: Did you have a referral?

NECHYPORUK: We must have had one.

PROSECUTOR: What did Stern say to you in the office?

NECHYPORUK: He said that treatment was possible.

PROSECUTOR: Well, and what did you say?

NECHYPORUK: He also said that he would prescribe powders and injections.

PROSECUTOR: Well?

NECHYPORUK: But he didn't prescribe them.

PROSECUTOR: Did you talk about money?

NECHYPORUK (*weeping*): No, we didn't. I gave him thirty rubles myself. He didn't ask me for it.

PROSECUTOR: Why did you give it to him?

NECHYPORUK (*calming down and standing up*): I simply gave it, that's all.

PROSECUTOR: Well, people don't give money away just like that.

NECHYPORUK: But I did. I told my husband later. But we were told that the injections weren't necessary. I was told not to go to Stern.

PROSECUTOR: Why?

NECHYPORUK: Because Stern poisons children. I didn't go back for the drugs.

PROSECUTOR: You went to see him once. Stern told you to come back the next day. Why did he say this?

NECHYPORUK: To get the powders and injections from him.

PROSECUTOR: What powders?

NECHYPORUK: I don't know.

PROSECUTOR: When did you give him the money?

NECHYPORUK: That's when I gave it.

PROSECUTOR: Why did you give him money?

NECHYPORUK: I don't know. I just did.

PROSECUTOR: Do you know where the powders are obtained?

NECHYPORUK: At a pharmacy.

PROSECUTOR: Why did you have to go back to Stern for the powders?

NECHYPORUK: I don't know.

PROSECUTOR: Why did you give Stern money?

NECHYPORUK: I simply did.

PROSECUTOR: Did he ask you to give him money?

NECHYPORUK: No.

PROSECUTOR (*in a threatening tone*): But at the preliminary investigation you said that he asked you.

NECHYPORUK: I didn't say that.

PROSECUTOR (*reads her testimony at the preliminary investigation*): "I asked him to write out a prescription, but he said that he wouldn't write out a prescription because I wouldn't be able to obtain these drugs anywhere except from him and that I should come back the following day with money. I had thirty rubles with me. I gave them to him and was supposed to come back the next day for powders, but people told me that Stern was a poisoner, laughed, and said that my son couldn't have any powders. I didn't go to see Stern any more."

NECHYPORUK: Stern promised to cure him.

PROSECUTOR: Is this your testimony?

NECHYPORUK: The doctor said, "Come back tomorrow."

PROSECUTOR: With money?

NECHYPORUK: No.

PROSECUTOR: Then why is it written in the record?

NECHYPORUK: I don't know.

PROSECUTOR: Then it was written down wrong?

NECHYPORUK: Must be.

DEFENSE COUNSEL: The doctor said he'd have powders and injections. Did I understand you correctly?

NECHYPORUK: Yes.

DEFENSE COUNSEL: Why didn't you tell the investigator about the injections?

NECHYPORUK: I don't know.

DEFENSE COUNSEL: Perhaps you did tell him?

NECHYPORUK: Perhaps I did.

DEFENSE COUNSEL: Was your son treated by Stern?

NECHYPORUK: No, by other doctors.

DEFENSE COUNSEL: Did they have charts?

NECHYPORUK: Yes.

DEFENSE COUNSEL: How many times did you see Stern?

NECHYPORUK: Once.

DEFENSE COUNSEL: Were you at the Health Center again after this?

NECHYPORUK: Yes.

DEFENSE COUNSEL: Was there a chart?

NECHYPORUK: I got a new one last year.

DEFENSE COUNSEL: When you were advised not to take the drugs, why didn't you go and get your money back?

NECHYPORUK: I decided it would be better not to go.

STERN: Does the witness know that she has the right to retract evidence given at the preliminary investigation?

JUDGE: Don't answer. Strike the question.

STERN: I don't remember you, but I can approximately reconstruct the episode from the chart. Tell me, did you see Professor Zelinsky after me?

JUDGE: Strike the question.

STERN: Is that where you were told not to see me again?

JUDGE: Strike the question.

STERN: Did I tell you that I would prepare drugs and that you would get them?

NECHYPORUK: Yes.

STERN: Questions can be stricken very easily, but that doesn't change the essence of the answers to them. The Nechyporuk episode very clearly shows how every possible means was used to discredit me as a doctor. Her child had a lesion on the pituitary lobes. In the case file she says that I promised her "special powders." There are powders that can be taken for a lesion on the posterior lobe of the pituitary. As long as you breathe them in, you feel fine. But as soon as you stop, you start feeling bad. If she hadn't become frightened of "Stern the poisoner," I would have helped her and obtained the drugs. But she was frightened away, not by any patients, but by Zelinsky. The chart contains his entries. It was he who saw her and persuaded her not to go back to me.

WITNESS DMYTRO HROMOVY, BORN 1904, PENSIONER

FROM THE PRELIMINARY INVESTIGATION:

Volume 2, case sheet 59

My wife died. I decided to get married again, but first to get treatment in the sexual area. I was referred to the Vinnytsia Provincial Health Center and advised to go see Stern. At first Stern told me that there's a special doctor I should see. I said that he wasn't there and asked Stern to take me.

FROM THE INDICTMENT:

On October 4, 1973 Dmytro Hromovy applied to Stern concerning endocrine impotence. Stern refused to see Hromovy and finally examined him only after Hromovy made insistent requests and paid him twenty-five rubles.

JUDGE: You're a Party member. You'll speak the truth.

HROMOVY: My wife became ill in 1973. They said she had a tumor on the brain and sent her to the hospital. They operated on her, and my daughter and I went to the hospital to take turns watching over her. One fine day they said to me, "Hromovy's wife has died." Well, I practically fell down the stairs. Some time went by, and I began to feel poorly somewhere. I went to Vinnytsia for treatment, but when I arrived they said the gynecologist was away on holidays.

JUDGE: You must mean the sexologist?

HROMOVY: Yes, I suppose so. They advised me to go see Stern. Well, I went into his office, and he said this wasn't his field. I went out, then thought a bit about it, and decided to ask him again. I went back and began to ask him again. He thought about it and agreed. I was at his office about five times in all. His attitude was very friendly. He treated me, and I recovered.

JUDGE: Did you thank him in any way?

HROMOVY: When I went to see him the first time, there was a sheet of paper lying there. I folded twenty-five rubles into it, put it down, and went out. Stern was out of the office at this time. Then he gave me a prescription, and I went around all the pharmacies with it but couldn't find the drug. I went back to him and said that I couldn't find the medicine, and he said, "Well, all right, I'll get it for you." I put ten rubles in his desk drawer that time. Then the same thing happened again. Again I couldn't find anything in the pharmacies. I went to him, and he said, "I'll look for it." And he did get it. But I personally went to the city three times and couldn't find it in the pharmacies.

JUDGE: Why did you give him money?

HROMOVY: The first time because he was good to me, the other two times for the drugs.

JUDGE: Where did you take them?

HROMOVY: I took them at home. My daughter is a nurse. She made the injections, and I took the tablets myself.

JUDGE: What is your daughter's name?

HROMOVY: Lida Hromovy. I took the powders myself and didn't give him another kopeck.

PROSECUTOR: Where did you take these injections—at home or at the first aid post? Why aren't your doses of this medicine recorded anywhere?

HROMOVY: At home.

PROSECUTOR: Which time did you give him the twenty-five rubles? During the preliminary investigation you said that you gave it the third time.

HROMOVY: I might be mistaken. It could have been the first visit or perhaps the fifth one. A lot of time has gone by.

PROSECUTOR: Do you remember the appearance of these drugs?

HROMOVY: No.

PROSECUTOR: In the record of the preliminary investigation they're described from your words. Even the names are listed.

HROMOVY: A lot of time has gone by. I don't remember. There were ampules and pills. Each packet had ten ampules. And the doctor had packets with three ampules in each one.

PROSECUTOR: The medicine at the pharmacies—isn't that the same you had to buy from the doctor?

HROMOVY: It's the same, but they didn't have any, and it didn't make any difference to me where I bought it.

DEFENSE COUNSEL: Did the doctor ever demand money from you?

HROMOVY: God forbid, no!

DEFENSE COUNSEL: In other words, you yourself decided to give him the money.

HROMOVY: Yes.

DEFENSE COUNSEL: Why didn't he receive you immediately when you came the first time?

HROMOVY: Because there's another specialist—a sexologist.

STERN: Did the treatment help you?

HROMOVY: It did.

STERN: Do you have any claims against me?

HROMOVY: No, I'm grateful to you for the treatment.

JUDGE: The court will now examine Hromovy's chart.

WITNESS LIDA HROMOVY, BORN 1935, MIDWIFE

PROSECUTOR: Did you give your father, Dmytro Hromovy, injections?

HROMOVY: Yes.

PROSECUTOR: What kind?

HROMOVY: Progesterone and prefizon. Nothing else.

PROSECUTOR: Did you see the prescription with which they were bought?

HROMOVY: I didn't see the prescription.

PROSECUTOR: How many injections did you make?

HROMOVY: I gave him progesterone twice a week and prefizon every day.

PROSECUTOR: How did you know that this was necessary? Was there a prescription?

JUDGE: Why are you laughing?

STERN: I'll explain later.

HROMOVY: Yes, there were instructions. I gave him six injections of progesterone and gave him prefizon every day for three weeks.

PROSECUTOR: Did you inject sustanon?

HROMOVY: No.

PROSECUTOR: Did you give the injections at home?

HROMOVY: At home.

PROSECUTOR: Did your father tell you who treated him, where he got the medicine, and how he thanked the doctor?

HROMOVY: No, he didn't.

JUDGE: A question to Stern. Progesterone is not mentioned in the chart.

STERN: The witness mixed up the names of the drugs. I wasn't laughing to offend the court. She could have given him injections only of male sex hormones—sustanon, choreogonin, and others. Progesterone is a female sex hormone, not a male hormone. This patient had his sexual potency restored. If he had been injected with female hormones, the result would have been the opposite.

JUDGE: What do you say to that, Hromovy?

HROMOVY: Perhaps I was mistaken. I don't remember exactly what I injected.

PROSECUTOR: Because various new questions have arisen, I request the court to recall witnesses Rybachuk and her husband, Manzhievsky and her husband, Anna Melnyk in the Huzhva episode, the Huzhva family—Maria, Anisia and Semen—and also Antonina Harmasar.

DEFENSE COUNSEL: I have no objections to the prosecutor's motion.

JUDGE: Some of these witnesses are being summoned to court to verify the statement, filed with the court, that the prosecutor spoke in his office with witnesses who had not yet testified at the trial.

STERN: I want to submit a petition. At the beginning of the trial the court promised me that I would be permitted to have the necessary contact with the defense counsel. Since December 18, however, my contact with the attorney has been limited by the guards. I request that order be introduced here because I consider this to be a scandalous violation of my rights.

PROSECUTOR: I see no grounds for such a petition. It seems to me that the accused in this trial has already been given more opportunities than

anyone else. Stern began to demand too much because he was allowed some liberties. The court has the complete right to stop all correspondence between the accused and his defense counsel.

DEFENSE COUNSEL: This petition was submitted without consultation with the defense. I categorically disagree with the prosecutor, however, when he alleges that our contacts exceed the limits of the law and that we were allowed some liberties. As for the material submitted to the court yesterday, I believe that it is not within the competence of the present court.

JUDGE: The court considers the data in this statement to be false, and we want to convince ourselves of this.

STERN: I have another petition. If this trial hadn't become such a huge burden on my constitution, I wouldn't be speaking about this. My health . . .

JUDGE: Speak only about matters that bear on the case.

STERN: I have the following petition. I had an attack of cardiac angina. Last night I was coughing up blood, which . . .

JUDGE: You're saying this for those who are recording. Give me the petition. I'll read it myself. (*Takes the petition from Stern.*)

STERN (*continuing from memory*): . . . which I stopped by drinking salt water. For five months I was refused medical assistance, even a dentist, on the investigator's orders. The one doctor who did see me couldn't even get me white bread, which I need in my diet because of a duodenal ulcer. I request the court to ask for the handkerchief, which is soaked in the blood I coughed up. . . .

JUDGE: The petition essentially asks that he be examined by a phthisiologist.²⁵

PROSECUTOR: If necessary, I believe he will get necessary medical assistance in the prison medical unit before our next session on Monday. We can learn about his condition from the prison doctors on Monday. I see no reason to invite a phthisiologist.

DEFENSE COUNSEL: We are adjourning for two days. But I am not convinced that the interrogation prison has a medical unit and suitable specialists. I believe that consultation and examination by a phthisiologist will be a useful and humane thing.

STERN: I have no need of the prosecutor's humaneness. I demand immediate medical assistance.

JUDGE: The court rules to summon a phthisiologist as a medical consultant to Stern.

*The Observer (London) 22 December 1974***KGB BLOCKS THE LINE TO JEW'S TRIAL***by James Wardlaw*

The Soviet KGB has blocked telephone calls to Mr. Michael Sherbourne, a North London school teacher who has been getting details out of Russia on the trial of Dr. Mikhail Shtern—a Jewish endocrinologist charged with accepting bribes for medical treatment and other offences.

I was with Mr. Sherbourne on Friday when a call came through from the Ukrainian town Vinnitsa, where the trial was taking place. The caller had just time to say 'Shalom (peace), Michael,' before the line went dead. Shortly afterwards, the London international operator got a reconnection. The caller said: 'They're not going to let us talk,' and the line was cut again.

Later, there was another call; but the caller could only say, 'Today . . . ' before being cut off.

The cuts follow publication in the *Times* of a letter from Mr. Sherbourne exposing gross inaccuracies in an official Novosty news agency report of the trial. In it, he revealed—what Novosty did not—that when the trial opened on 11 December, 19 out of 20 State witnesses withdrew evidence they had given at the preliminary investigations.

Among the bizarre charges that had been leveled against Dr. Shtern are that he murdered patients and exposed children's sexual organs in the presence of their parents.

Yesterday Mr. Sherbourne managed to telephone another contact in Russia and was told that at Friday's hearing Dr. Shtern requested a medical examination for pulmonary tuberculosis. (He is feared to have developed the condition during his imprisonment.)

Dr. Shtern also protested at State pressure on witnesses—mostly his former patients and illiterate peasants—to give false evidence and was told that he should produce his own evidence.

Earlier last week, through one of his many telephone contacts, Mr. Sherbourne received the dictated text of an address to President Ford from nine prominent Moscow Jews.

The nine say that by the middle of last month the telephones of all Jewish emigration activists in Moscow had been cut, thus depriving them of contact with the outside world, and that the authorities are now intercepting letters and 'losing the affidavits' (formal invitations to visit Israel) which must accompany every application to leave Russia.

'Recently' say the nine, 'the authorities went to the absurd length of

demanding certificates of deaths of parents who perished in Nazi camps.'

Other reasons recently given for refusing exit permits included 'No near relatives in Israel'; 'Not all the family are leaving'; and 'Nearest relatives live in USSR'. . . .

The address lists people who have been refused visas on the spurious grounds that they have had access to State secrets. They include a leading Soviet mathematician, professor Piatetsky Shapiro, whose work for the Academy of Sciences has been solely on abstract problems, and a man whose wife works as a doctor in a factory making radio sets.

The signatories of the address are Melik Agursky, Vladimir Davidov, Vitaly Rubin, Dina Beilina, Alexander Lerner, Vladimir Slepak, Alexander Voronel, Alexander Luntz and Anatoly Sharansky.

MONDAY, DECEMBER 23, 1974

Day Nine of the Trial

When the public has filled the courtroom before the start of the day's proceedings, several of Dr. Stern's friends are taken from the courtroom to the local militia station, where they are detained by Oleh Hota, the chief of the Investigation Department. They are cautioned not to continue offering support to and maintaining contact with Dr. Stern and his family. They are also threatened that "appropriate measures will be taken" if misleading information about the trial continues to be passed on to the West.

Before the session opens Victor Stern again submits to the Judge a statement asking him to stop the illegal actions of the militiamen who had influenced witnesses waiting to be examined the previous Friday (December 20), telling them that a large quantity of currency, gold and diamonds had been discovered during a search at Stern's apartment.

JUDGE: Did the militiaman talk to you about gold?

WITNESS: What?

JUDGE: Did the militiaman talk to you last Friday?

WITNESS: What militiaman?

JUDGE: In the hallway.

WITNESS: There were a lot of militiamen in the hallway.

JUDGE: Did you hear that? There was no talk with the witnesses, no talk about gold. This is a slanderous statement. You are free. All these statements are being made for hostile radio stations. They're trying to discredit us again. We don't know who—we'll find this out—released two unexamined witnesses yesterday. They'll have to be called back. For now we shall continue to examine witnesses. All unexamined witnesses, except for Huzhva and Lavreniuk, will please leave the courtroom.

WITNESS VASYL LAVRENIUK, BORN 1913, COLLECTIVE FARMER

FROM THE INDICTMENT:

Citizen V. Lavreniuk turned to Stern because he was suffering from hypogenitalism. Realizing from Stern's behavior that he had to give him money, Lavreniuk walked up behind him and slipped twenty-five rubles into his coat pocket, after which Stern examined Lavreniuk and promised to make him a "strong man." Believing Stern's promise, Lavreniuk visited him four times and gave him a hundred rubles but then stopped the "treatment" when he did not feel any better.

LAVRENIUK: I don't remember exactly what year it was when I went to see Stern. . . .

JUDGE: In 1972.

LAVRENIUK: Yes, in the autumn.

JUDGE: No, in the winter.

LAVRENIUK: Perhaps it was in the winter. I arrived at the Health Center with a referral from the district. First I was seen by another doctor, then by Stern. He treated me very well. I'm extremely grateful to him. I have no claims against him now.

JUDGE (*brutally*): Tell us about the money. What dealings did you have with him?

LAVRENIUK: He didn't put his hand in my pocket. I had to force the money on him. He didn't want to take it.

JUDGE: How much did you give him?

LAVRENIUK: Twenty-five rubles on each of four occasions.

JUDGE: Where?

LAVRENIUK: At work. I wanted to go on living, and he was curing me. He saved my life. I'm grateful to him.

PROSECUTOR (*mimicking*): Saved my life, saved my life! What did you ask of the doctor?

LAVRENIUK: I didn't ask anything. The doctor examined me and prescribed injections.

PROSECUTOR: Did you ask him to prescribe more?

LAVRENIUK: No.

PROSECUTOR: What can you say about the way Stern behaved?

LAVRENIUK: I can't say anything. He didn't ask for anything from me. He examined me thoroughly.

JUDGE: There are discrepancies between the witness's testimony and what he said during the preliminary investigation. During the investigation he testified: "When I saw Stern, I realized from his behavior that I would have to give him money. . . . I placed twenty-five rubles in the pocket of his coat. . . . On one occasion, Stern apparently wanted me to give him more money and held me there until evening. He didn't examine me, but merely prescribed sustanon. . . . While I was taking the sustanon, I had sexual relations. As soon as I stopped taking it, I didn't."

LAVRENIUK: It's all true. The treatment helped only when there was sustanon.

DEFENSE COUNSEL: You said in court that you have no claims against the doctor, but now something different has been read. Do you understand this?

LAVRENIUK: What's written is true, but he didn't demand anything from me. I can't tell a lie—I gave him the money on my own. I'm grateful to him.

STERN: I want to explain. I injected him with my own preparations, a combined hormone which cost a lot of money.

JUDGE: What preparations?

STERN: This has to do with my modifications, but it's of no significance now. I was able to cure the patient only by applying an individual approach to him. It's clear that I couldn't have cured him with sustanon alone. The injection of sustanon was merely a supporting dose of hormone. Thus the money went to pay for these expensive preparations. I never kept Lavreniuk or anyone else waiting. Everything that's written about complications in receiving patients is a fantasy of Investigator Kravchenko's.

JUDGE: Why did you inject the drugs yourself?

STERN: Because a doctor has to supervise the treatment and see the results for himself.

JUDGE: Why are the injections that you mention not listed on the patient's chart? Weren't you obliged to record this combined injection in the chart?

STERN: I wasn't about to inform everyone of my method before it was published.

JUDGE: But permission is needed to apply a new method.

STERN: It seems to me that this is a purely medical question, and in taking it up the court is exceeding its competence.

PROSECUTOR: You have no right to reprimand the court.

STERN: And you have no right to reprimand me. That's the court's business.

JUDGE: Accused, you have no right to reprimand. Write down a reprimand to him in the record.

WITNESS SEMEN HUZHVA

JUDGE: You testified that you brought your wife, talked to the doctor, and then left. Where was your wife while you were away?

HUZHVA: She was sent for tests and admitted to the hospital the next day.

DEFENSE COUNSEL: She didn't go home then?

HUZHVA: No.

JUDGE: There's an entry in the chart—volume 4, case sheet 39: "Received by Stern September 15." And then: "Extend certificate for medical leave of absence from September 15 to 24, 1971." Was her leave of absence extended?

HUZHVA: Yes.

JUDGE: Then it says: "sent for in-patient treatment." Then right here there's an entry on September 24 by the director of the in-patient department that she had in-patient treatment from September 24 to October 24. So it appears that she was hospitalized only ten days later.

HUZHVA: She didn't go home.

JUDGE: Then why did you pay him fifty rubles?

HUZHVA: Because he promised to cure my wife.

DEFENSE COUNSEL: During the hearing on December 11, you stated that you paid fifty rubles to have your wife hospitalized. How are we to understand you?

HUZHVA *does not answer.*

JUDGE: Did you give money in 1972 for the referral to Kiev? There's an entry about this here, dated February 17, 1972, on sheet 46: "In connection with ineffectiveness of drug therapy and impossibility of raising calcium level . . . refer to the Institute of Endocrinology."

HUZHVA: Yes, that happened the second time. I brought my mother's savings account book.

JUDGE: Is your mother here? We summoned her.

HUZHVA: She's not here.

JUDGE: You, your wife, [Stanislava] Rybachuk, and [Leonida] Manzhievsky were summoned to appear on December 13. What office did you go to?

HUZHVA: I didn't go anywhere.

STERN: I petition . . .

JUDGE: Don't interfere or we'll evict you from the courtroom.

STERN: But I want to say . . .

JUDGE: You are interfering with the examination of the witnesses. Guards, please remove the accused from the courtroom.

The guards rush to Stern and try to grasp him by the arms.

STERN: This is hooliganism! I protest! If my mouth is gagged, I will refuse to take part in the trial . . .

STERN is led out.

WITNESS IVAN MYKHALSKY, BORN 1936, DRIVER

JUDGE: Do you know Huzhva?

MYKHALSKY: Yes.

JUDGE: Did you drive him anywhere at his request?

MYKHALSKY: Yes. He asked me to drive him over to his mother-in-law's. He said he had to get money from his mother-in-law. She gave him fifty rubles.

JUDGE: Did he tell you what the money was for?

MYKHALSKY: He said it was for a trip to Vinnytsia. He said his wife was in the hospital and he was planning to visit her.

JUDGE: Did he say who the money was for?

MYKHALSKY: No, he didn't.

DEFENSE COUNSEL: Where was his wife when you drove him?

MYKHALSKY: She'd been in the hospital for a long time.

DEFENSE COUNSEL: Approximately how long?

MYKHALSKY: I don't remember exactly, but it was a long time.

Commotion in the courtroom.

WITNESS ANNA MELNYK; HUZHVA'S MOTHER-IN-LAW

MELNYK: My daughter, Maria Huzhva, was ill. She had an operation in Plyskiv, but after the operation she felt worse and they sent her to the Health Center in Vinnytsia. She went with her husband Semen Huzhva. She was hospitalized at the Provincial Health Center. I often went to see my daughter. She was there for a long time. One day my son-in-law came to me and said that he needed money. "Maybe I'll go to the doctor." I gave him fifty rubles and then gave him another five when he was leaving.

JUDGE: Tell us about how you went together.

MELNYK: Well, we arrived there. He went to see the doctor, and I waited. I waited a while, then asked a passer-by where the hospital was. He told me, and I went to see my daughter.

PROSECUTOR: Under what circumstances did you give Huzhva fifty rubles?

MELNYK: He came with the driver one evening. Later my son-in-law said that he had given the money to the doctor who was treating her.

PROSECUTOR: When was this?

MELNYK: I don't remember exactly.

PROSECUTOR: After your daughter went to the hospital, while she was staying there, did she leave Vinnytsia at any time?

MELNYK: No, she was ill.

DEFENSE COUNSEL: Where did your daughter live?

MELNYK: With her husband's mother.

DEFENSE COUNSEL: When were they building their house?

MELNYK: Before her illness. When she took ill, they stopped building. Now they've finished building.

DEFENSE COUNSEL: Did he take produce as well as money?

MELNYK: I don't remember.

DEFENSE COUNSEL: When they came for the money, was your daughter in the hospital already?

MELNYK: Yes, I remember exactly. She was in the hospital.

Commotion in the courtroom.

WITNESS VIRA DZISIAK, BORN 1929, CLERK IN VILLAGE SHOP

FROM THE INDICTMENT:

A resident of the village of Sutisky, Vira Dzisiak wished to check the state of her health. Having heard rumors that Stern did not accept patients without money, she went to the Provincial Endocrinological Health Center on February 18, 1971 without a referral from the regional hospital. Walking into Stern's office, she went directly to Stern, who was standing in the office, and put ten rubles in the pocket of his coat.

DZISIAK: I was treated by Stern three years ago, in March 1971, I think. My friend advised me. "There's a very good doctor in Vinnytsia," she said. "If you like, I'll take you to him." Well, we went. When we arrived at the Health Center, she went into the office and I waited outside. Then I went in. He examined me, prescribed treatment and tests, and did everything he had to. I went to see him three times. That's all.

PROSECUTOR: Did you thank the doctor?

DZISIAK: Yes.

PROSECUTOR: How?

DZISIAK: I put ten rubles in his pocket. He didn't see it.

DEFENSE COUNSEL: Did the doctor ask you for money?

DZISIAK: No, he didn't. There was no talk about money.

DEFENSE COUNSEL: Did the investigator interrogate you?

DZISIAK: Yes.

DEFENSE COUNSEL: Did the investigator tell you about the criminal liability for giving bribes?

DZISIAK: Yes, he said that both the person who takes and the person who gives a bribe can be tried. I said that I know this, but he didn't ask for money and he didn't see me put it there. So what sort of bribe is that?

DEFENSE COUNSEL: The case file contains your request to the Prosecutor's Office to be released from criminal liability for giving a bribe. Did you write it?

DZISIAK: But he said that a person who gives a bribe can be charged too. So I wrote it just in case.

The court recesses. Just before the end of the recess, the guards bring in Stern, who was evicted during the examination of Huzhva.

STERN (*loudly*): If this merciless treatment of me does not stop, I will declare a hunger strike!

JUDGE *sits in stunned silence. Neither his experience nor his official instructions tell him how to respond in this situation.*

PROSECUTOR *shows panic on his face. His lower jaw drops sharply, baring a row of yellow teeth, and he goggles at Stern in amazement.*

DEFENSE COUNSEL *is impenetrable. He makes notes in his papers.*

CLERK OF THE COURT *blushes and looks at the accused with admiration.*

PLAINCLOTHES AGENTS *fidget in their seats and cast threatening looks.*

MILITIAMAN *is obtusely indifferent. He does not quite understand what "hunger strike" means.*

IDA STERN *turns pale. Pain, pride, and horror are mixed in her eyes.*

THE ZELENIIK INCIDENT

FROM THE INDICTMENT:

Inductee Victor Zeleniuk was referred to Stern by the Military Board on March 23, 1973. After examining the youth Stern told him to come back with his mother. When Liubov Zeleniuk appeared, Stern undressed her son in her presence and demanded that she "not be stingy and treat her son." When Zeleniuk obtained the prescription, explained to Stern that she did not have any money, and tried to leave, he demanded, "So pay me!" in connection with which Zeleniuk was forced to give him five rubles.

WITNESS LIUBOV ZELENIIK

ZELENIIK: My . . . Victor . . . (*Mumbles unintelligibly.*)

VOICE FROM THE COURTROOM: Sound!*

JUDGE: Come closer. Don't be afraid. Speak up.

ZELENIIK: My son Victor was referred (*pauses*) by the Military Board . . . (*Silence*)

JUDGE: Well, what? (*Gently*) Don't be afraid, speak up!

ZELENIIK: My son Victor was referred by the Military Board to the Vinnytsia Endocrinological Health Center. He was examined by a woman doctor, and then Stern called me in. He said that the boy's mother was inattentive and hadn't noticed that he needed treatment. Stern wrote out

*An expression commonly used in Russian movie theatres to attract the attention of the projectionist when something goes wrong with the film projection.

a drug, and my son went to the pharmacy to buy it. He bought it himself. Then we went another time.

PROSECUTOR: How much time passed between the first and second visit?

ZELENIUK: I don't remember.

PROSECUTOR: Did you give anyone money?

ZELENIUK: No one, except for the eighteen rubles at the pharmacy.

PROSECUTOR: But during the investigation you said that you had given Stern five rubles.

ZELENIUK: It wasn't me. It was my son who put down five rubles.

PROSECUTOR: What did he put it down for?

ZELENIUK: For the examination.

PROSECUTOR: Did anyone ask you for money?

ZELENIUK: No, no one did.

PROSECUTOR: But during the preliminary investigation you said that Stern had asked for money. I request the court to read the testimony.

JUDGE: Witness, tell us what really happened. Case sheet 162 of volume 5. Your evidence: "Stern said, 'So pay me.' " Is this written down correctly?

ZELENIUK: No, it isn't.

PROSECUTOR: Did Stern ask you for money?

ZELENIUK: Of course not. Maybe I said it wrong?

PROSECUTOR: Then why does the record show that he did ask?

ZELENIUK: I don't know.

STERN: You ought to ask the investigator about this and not the witness.

JUDGE: Accused Stern, you are not being asked. Write down a reprimand to him in the record.

STERN: Is your son in good health?

ZELENIUK: He is.

STERN: Do you have any claims against me?

ZELENIUK: No, no claims.

WITNESS VICTOR ZELENIUK, BORN 1958, EIGHTH-GRADE PUPIL

JUDGE: The court cautions you to speak the truth. I think you haven't learned to lie yet.

ZELENIUK: I was sent to this doctor by the Military Board. The first time I went by myself. The doctor told me to come back with my mother. When we came, the doctor said I needed treatment and wrote out a prescription. We bought the drug, and I was treated.

JUDGE: Did the doctor give you any drugs—pills or injections?

ZELENIUK: No.

JUDGE: Was there anything else?

ZELENIUK: I don't remember.

JUDGE: What, you have a bad memory? You've told us about the prescription. You've told us about going with your mother. What else happened?

ZELENIUK (*angry*): Nothing else happened.

PROSECUTOR: Was there talk about money?

ZELENIUK: No.

PROSECUTOR: What did you say at the preliminary investigation?

ZELENIUK: Nothing.

JUDGE: I shall read your testimony. "The next day I came back to him with my mother. He undressed me, showed my mother my sexual organ, and said, 'Don't be stingy. Your son needs treatment.' Then he wrote out a prescription. My mother did not give him money. We were getting ready to leave, but the director said, 'So pay me.' Then my mother took out five rubles and gave them to him." Is this your signature? (*Gives him the sheet to read.*) Did you write this?

ZELENIUK: I can't make it out.

JUDGE: Whose signature is this?

ZELENIUK: Mine.

JUDGE: A question to the mother. Who put down the money?

LIUBOV ZELENIUK: My son. (*Tugs her son by the hand.*)

PROSECUTOR: Is that so?

VICTOR ZELENIUK: Yes.

PROSECUTOR: Why didn't you say so at once?

VICTOR ZELENIUK *does not answer.*

PROSECUTOR: What grade are you in?

ZELENIUK: Eighth.

JUDGE: Why do I have tenth written down here?

DEFENSE COUNSEL: Were you over sixteen when the investigator questioned you?

ZELENIUK: No.

DEFENSE COUNSEL: Did the investigator invite anyone to be present during the interrogation—a teacher or your mother?

ZELENIUK: No.

STERN: I want to emphasize that the investigator deliberately changed the witness's age in order to conceal the violation he committed when he interrogated a minor without another person present. I request that this be entered in the record. I also request the court to establish in whose handwriting Zeleniuk's "testimony" was written.

JUDGE: Accused Stern, we will examine everything. We are here to examine everything objectively. The court will recess.

After a short recess.

WITNESS KAZIMIR URBANSKY, BORN 1922, HEAD PHYSICIAN
AT THE VINNYTSIA ENDOCRINOLOGICAL HEALTH CENTER

JUDGE: Witness, please tell us whether you know this man. (*Points at Sigismund Manzhievsky.*)

URBANSKY: No, I don't remember him.

JUDGE: Are you familiar with this document? (*Presents the statement signed by Karolina Liubetsky's family.*)

URBANSKY: I've seen this document. I remember this incident. One day at the morning conference, a junior member . . .

JUDGE: What is his name?

URBANSKY: Kohut, a junior member of the Medical Institute, told me that Stern had accepted a bribe to hospitalize this patient. Stern wasn't there. I called him in later and demanded an explanation. He said, "I shall explain everything tomorrow morning." The next day he came in with this document and brought in a citizen who said that he was a relative of the deceased. I don't remember whether this was the man you showed to me. Stern said that he would take Kohut to court for slander. Then the patient died, and the relatives came to get the body. I talked to them again about this and asked whether they had any complaints and whether they had given money. They said they hadn't.

PROSECUTOR: Why didn't you take this case to the Prosecutor's Office then?

URBANSKY: I figured that the case was closed. I reported the incident to Provincial Therapist Postolovsky.

JUDGE: Did I understand you correctly that this statement was brought to you before the patient died?

URBANSKY: You did. This happened the second day after she was admitted. They came back again after she died. Two women relatives came to get the body, and I had a talk with them too. They said that they didn't have any complaints and that nothing had happened.

JUDGE: In fact the document was written after Liubetsky's death. Here's the date. We warned you to speak only the truth. We warned you about the criminal liability for giving false evidence.

URBANSKY (*bowing*): But I've told you the way I remember it.

JUDGE: Leonida Manzhievsky, Sigismund Manzhievsky, and Petro Rybachuk, did you go get the body?

ANSWER: Yes.

JUDGE: Did you speak to this doctor?

ANSWER: No, we never saw him.

URBANSKY: Bodies cannot be released without my authorization. The relatives couldn't have avoided speaking to me. The case history contains my order to release the body. So the witnesses are not telling the truth.

JUDGE (*in confusion*): We . . . simply . . . wanted to know . . . how truthful your testimony is. No one is accusing you. Do you know anything about bribes at the Clinic?

URBANSKY: I have been working there since May 1970 and have never heard anything about bribes during this time.

JUDGE: When inductees are sent by the Military Board, are there occasions when the doctor makes a diagnosis and sends for the mother?

URBANSKY: Apparently you have sexual and physical underdevelopment in mind. The point is that everybody develops at approximately the same age. Sometimes it's necessary to determine how the child's development took place. In these cases it makes sense to speak with the parents.

JUDGE: Is it necessary to undress a sixteen-year-old boy in his mother's presence?

URBANSKY: I believe that if this is done in the mother's presence, then it has no great significance for her. But this isn't obligatory.

JUDGE: We think so too. It seems to us that this shouldn't be done.

URBANSKY (*bowing*): I think that this isn't obligatory. If I had known about this, I would have issued a reprimand.

JUDGE (*to STERN*): Why are you smiling?

STERN *does not answer*.

JUDGE: Do doctors themselves give patients injections?

URBANSKY: This should be done by the nurses.

JUDGE: We are not medical specialists here. One of the comrades here is from a factory. (*Points to the People's Assessors.*) This comrade is an ex-serviceman. I'm a jurist. Please explain to the court: should every injection be recorded in the Health Center's documents?

URBANSKY: Absolutely.

JUDGE: Stern here asserts that he gave many patients injections in his own office.

URBANSKY: I didn't know about this. After prescribing injections a doctor writes out an order to a nurse, and she records it in her log.

JUDGE: Which nurses give injections?

URBANSKY: They alternate. We have three of them: Bilman, Weisser, and Spivak.

JUDGE: Do you know anything about the combined or special injections that Stern administered according to his method?

URBANSKY: We didn't have a Stern method at the Health Center. Another matter is that we are introducing certain new methods. They have been officially approved, but we sometimes modify them. We have methodological directives which apply to everyone and which specify how new methods are to be introduced. There was an All-Union conference on this subject, for example, in 1970. Our professor came back from Moscow with directives which everyone is supposed to follow. I monitored the work at the Health Center and came to the conclusion that some of the doctors were not following this one method. I made a report about this. We apply those methods that are recognized in the Soviet Union.

JUDGE: Are you aware that doctors supply patients with drugs in their offices?

URBANSKY: This is not permissible in principle.

JUDGE: The court has already established many cases when Stern himself gave patients drugs.

URBANSKY: I didn't know about this.

JUDGE: We are questioning you to clear up the situation in the institution you have been entrusted with.

URBANSKY (*bowing*): Doctors see patients in their offices, and I could have failed to notice this.

JUDGE: What would you do if you found out that a doctor was giving patients drugs in his office and accepting money for this?

URBANSKY: I would consult with a legal expert to determine whether there was a violation of the law here.

JUDGE: Have any measures been taken recently to ensure that such things do not happen? Directives from the Provincial Health Department, for example?

URBANSKY (*bowing*): I received a sharp reprimand. There were also orders from the Provincial Health Department and a circular from the Ministry. The orders had a seal. I don't know whether they can be made public. They say that Dr. Stern was involved in bribery. I've brought them along. (*Takes the papers out of his briefcase.*)

JUDGE (*taking the documents and writing down their numbers*): I don't think there's any need to make them public.

STERN: How could they issue orders saying that I'm a bribe-taker before the

court reached a verdict? They've humiliated me throughout the Republic!

JUDGE: I agree with you. This was wrong. Comrade defense counsel, we shall acquaint you with the contents later, during a recess. The court will get to the bottom of this. Tell us, were there cases where doctors themselves obtained and sold drugs?

URBANSKY: If I had known about this, I would have consulted with a legal expert.

JUDGE: Do doctors go with their patients to the pharmacy?

URBANSKY: There's no need for that. It's unnatural.

PROSECUTOR: What was Stern's position?

URBANSKY: He was the director of the Outpatient Clinic.

PROSECUTOR: Who makes appointments to this post?

URBANSKY: The personnel office of the Provincial Health Department.

PROSECUTOR: Could you make appointments to this post?

URBANSKY: I didn't make the appointment, but I have the power to do so according to the law. In our province, however, these questions are decided by the Provincial Health Department.

PROSECUTOR: Do you have deputy directors at the Health Center?

URBANSKY: There are no deputies. Each time I go on leave, I appoint one of the department heads.

PROSECUTOR: Is Stern your deputy by virtue of his position as the director of the Out-Patient Clinic?

URBANSKY: No.

PROSECUTOR: Stern claims that he's just an ordinary doctor.

URBANSKY: No, he's a clinic head, but he is not my deputy. We have many clinic heads.

PROSECUTOR: Who is responsible to him?

URBANSKY: The laboratory chief, even though she also works for the hospital, and also the doctors and nurses in the Outpatient Clinic.

PROSECUTOR: Are such doctors as neuropathologists, gynecologists, and therapists subordinate to Stern?

URBANSKY: That depends on what you mean. The director of the Outpatient Clinic checks the organization of their work, guides them as a physician, and makes sure that tests are performed properly at the laboratory. He has no power to decide such administrative questions as leave, hiring and firing, and others. That's my responsibility.

PROSECUTOR: Who determines the order of consultations in the Outpatient Clinic?

URBANSKY: The director of the Outpatient Clinic.

PROSECUTOR: Who established the procedure for receiving inductees referred by the Military Board?

URBANSKY: This is the procedure that is followed by all medical institutions.

PROSECUTOR: Who established the procedure for receiving adolescents who are sexually and physically underdeveloped?

URBANSKY: I don't understand the question.

PROSECUTOR: We have determined that such patients were usually seen by Stern.

URBANSKY: No, that's not so. Adolescents over fourteen are seen by a therapist-endocrinologist, either Stern, Levit or Hamarnyk. Adolescents under that age are seen by a pediatric endocrinologist.

PROSECUTOR: Who has the responsibility of sending reports to the Medical-Labor Board?

URBANSKY: These reports have to be signed by several doctors, including Stern. But these are reports about the patients' state of health for the Medical-Labor Board, that is, whether the patient is ill or not. The degree of disability is determined by the Medical-Labor Board.

PROSECUTOR: What are your procedures for hospitalization?

URBANSKY: Like other hospitals we have emergency and planned hospitalization.

PROSECUTOR: Who refers patients to the hospital?

URBANSKY: It's like anywhere else. Emergency cases are brought in by ambulance. Planned admissions are referred by local doctors. But if the referral is from the Outpatient Clinic, any doctor can do it, not just the director. It's true we don't always have the opportunity to admit them. But this is decided by the hospital director.

PROSECUTOR: Who issues referrals for consultation in other cities?

URBANSKY: We send the patient to a professor or his assistants. In this sense they're a higher authority for us. If there's a difference of opinions, the decision is made by the head physician, that is, myself.

PROSECUTOR: Can the director of the Outpatient Clinic make a referral?

URBANSKY: If it's a case of ambulatory consultation, the director of the Outpatient Clinic can make the decision. The only consideration here is the urgency of medical assistance.

PROSECUTOR: What injections have to be administered in clinical conditions, and what injections can be given at home?

URBANSKY: We give insulin, for example. In cases of diabetes we are required to administer insulin immediately on the first visit because otherwise the patient might go into a precomatose state.

PROSECUTOR (*rudely*): Let's not philosophize. We are not interested in insulin. The injections that Stern gave—are they urgent too?

URBANSKY (*bowing*): Such injections can be given at the place of residence, although exceptions are possible.

PROSECUTOR: What can you tell us about Stern's method of treatment?

URBANSKY: I don't think there was any such method. Perhaps he appropriated someone else's method.

DEFENSE COUNSEL: What other clinics does the Health Center have?

URBANSKY: There's also the hospital clinic, which consists of two clinics—surgical and therapeutic. Formerly we had two barracks, but now the hospital has been built.

DEFENSE COUNSEL: And each of these has its own director?

URBANSKY: Yes.

DEFENSE COUNSEL: Are they equal to Stern in rank or superior?

URBANSKY: They're probably more important.

DEFENSE COUNSEL: Could Stern give them orders?

URBANSKY: No.

DEFENSE COUNSEL: If the Director of the Outpatient Clinic finds it necessary to hospitalize a patient, what must he do?

URBANSKY: The doctor phones the hospital and asks whether there's a spare bed. The question is decided on the spot. It's a quick business.

DEFENSE COUNSEL: And what if the doctor writes a referral?

URBANSKY: It means that the doctor knows a bed is available.

DEFENSE COUNSEL: Would you please take patient Liubetsky's chart on page 68, volume 4? Tell me, in view of the symptoms listed here, should a doctor decide to hospitalize her?

URBANSKY (*reads*): "Diabetic for ten years, takes insulin, trophic ulcer, abscess, edema, asthmatic respiration . . ." Yes, she should be hospitalized immediately.

DEFENSE COUNSEL: Please note who signed the hospitalization referral.

URBANSKY: Dr. Hamarnyk. Whereas the order for consultation was signed by Stern. It says, "Critical case."

DEFENSE COUNSEL: Tell me, did he have the right to do so without a referral?

URBANSKY: In general, we try not to admit patients without referrals. Sometimes we say, "We cannot admit you without a referral." But in this case emergency hospitalization was necessary, to the detriment of scheduled admissions. These are things one must do. He had the right to authorize her admission without a referral.

DEFENSE COUNSEL: Tell me, are a neuropathological endocrinologist and a therapeutic endocrinologist different specialties?

URBANSKY: Yes.

DEFENSE COUNSEL: Do you have special instructions which you must follow when you admit patients referred by the Military Board?

URBANSKY: No, the usual regulations apply.

DEFENSE COUNSEL: You are not obliged to hospitalize such patients?

URBANSKY: No, even though it sometimes happens that we do.

DEFENSE COUNSEL: If it is necessary to issue a referral to the Institute in Kiev to look into the possibility of grafting parathyroid glands, can this question be resolved by an ordinary doctor?

URBANSKY: It's a point of detail, of course. The director of the Outpatient Clinic should decide.

DEFENSE COUNSEL: What do you know about the relations between Stern and Professor Zelinsky?

URBANSKY: They've been working here for ten years. I arrived at the Health Center three and a half years ago, and I don't know how these relations were established. They frequently had conflicts on a professional basis and disagreed in their diagnoses. Sharp words were said. At other times their conversations were rather effusive.

STERN: I request that Urbansky's evidence at the preliminary investigation about my relations with Zelinsky be announced.

JUDGE: Wait a minute, don't interfere with the examination of the witness. Later.

DEFENSE COUNSEL: Did Zelinsky and Kohut complain to you about Stern? Were there denunciations from them to you?

URBANSKY: There were conflicts. There were no denunciations. There was one such incident, but no others.

STERN: Did I tell you that I was receiving dirty anti-Semitic anonymous letters?

JUDGE: Write down the question in the record, and now the court strikes the question. Questions may not be put this way. We shall rephrase the question.

STERN: I'm not a specialist in jurisprudence and can ask a question incorrectly. I shall be grateful to you if you put it correctly.

JUDGE: The court does not need your gratitude. The question should be put this way: Do you know anything about anonymous letters regarding Stern?

URBANSKY: Dr. Stern spoke to me about this. But I don't know of any sort of anonymous correspondence coming to the Health Center and being appropriately registered. But he did speak to me. There was a claim on his part, for example, that an anonymous letter had supposedly been slipped into his office. You know, our society doesn't take these anonymous letters very seriously. . . .

STERN: Did I bring up these anonymous letters at staff conferences?

URBANSKY: Yes, that happened.

JUDGE: A question to Stern. Did you know who was sending these anonymous letters?

STERN: I have no proof, but I am convinced that they came from Professor Zelinsky's group. (*To URBANSKY.*) Tell me, witness, are you acquainted with this text . . .

JUDGE: The court forbids you to make this text public! It is included in the case file.

PEOPLE'S ASSESSOR: Were there incidents of theft during your employment?

URBANSKY: There was some petty theft. Someone stole a hat and a doctor's smock.

JUDGE: Did Stern have Party penalties?

URBANSKY: He had a penalty ten years ago.

JUDGE: For what?

URBANSKY: I don't know. Something to do with his work.

PROSECUTOR: Who organizes the work of the Outpatient Clinic: you or the director of the department?

URBANSKY: The work is organized by the director of the clinic, and the head physician supervises it.

PROSECUTOR: Who is responsible for rendering medical assistance to patients at the Outpatient Clinic?

URBANSKY: The director of the clinic. I feel sick. Couldn't we have a break?

JUDGE (*smiling*): Very well. But we'll continue the examination later.

Urbansky leaves the courtroom with a low bow.

WITNESS ANTONINA HARMASAR

JUDGE: You were examined here on December 13, and you were in one of the offices before the hearing. Did this happen?

HARMASAR: I didn't go in anywhere in the morning. Although no, I did. I was told, "Wait here, you'll be summoned."

JUDGE: Did the prosecutor speak with you?

HARMASAR: No.

JUDGE: You know why this subject has been brought up. There was a statement to the Supreme Court that the prosecutor talked to you there, that he applied pressure to witnesses. Is this true or isn't it?

HARMASAR: No.

JUDGE: Do you understand? This statement is patent slander against the prosecutor. They tried to discredit the State prosecutor.

Judge Orlovsky
Vinnytsia Provincial Court

December 23, 1974

A STATEMENT

Today you stated in court that my statement of December 15 about a talk between Prosecutor Kryvoruchko and witnesses on December 13 “was addressed to the Supreme Court of the Ukrainian SSR,” that I cite the “fact of pressure by the Prosecutor on witnesses” in it, and that the statement is “slander intended to discredit the State prosecutor.” In connection with this I believe it is necessary to draw your attention to the following:

1. My statement of December 15 was addressed not to the Supreme Court, but to you. The Supreme Court was merely sent a copy of this statement.

2. I did not mention pressure by the prosecutor on witnesses in my statement. I merely informed you of a possible talk between him and unexamined witnesses in the office of Vice Chairman of the Court Dovhaniuk, in his presence. The fact that the Prosecutor was in a closed office with witnesses was confirmed in court today by the testimony of witnesses Rybachuk, Leonida Manzhievsky, Harmasar and Huzhva.

3. The phrase “pressure by the Prosecutor on witnesses” was first used by you in the courtroom today, when you commented about my statement of December 15 that the Prosecutor had been in the same room with witnesses.

I again request you to take into account the facts presented in my statement of December 15 and confirmed at today’s hearing when the evidence of the witnesses is evaluated.

Victor Stern

cc: Supreme Court of the Ukrainian SSR

Enclosure: Copy of my statement of December 15

TUESDAY, DECEMBER 24, 1974

Day Ten of the Trial

The end of the trial is approaching, but the situation has not become any clearer. On the contrary, the clouds are gathering into a thunderstorm. There is a sense that strict instructions have come from above, instilling fear

even in the "guardians of law and order." The Judge has a tense and somber look on his face. The plainclothesmen everyone has become accustomed to have been replaced with new ones, although there is no point in this because their characteristic faces can immediately be spotted even by the untrained eye. Although no one is preparing any terroristic acts and the Stern family's entire "arsenal" consists of two portable tape recorders for recording the trial, Dr. Stern's apartment is put under round-the-clock surveillance. Agents in cars equipped with walkie-talkies photograph everyone who enters and leaves the building.

STERN: I have the following petition. I request that the witnesses for the defense be summoned according to the list submitted by my defense counsel. The court promised to decide this in the course of the trial. The end of the trial is approaching. Many of the witnesses live in the province and should be notified several days in advance. I also want to submit an objection to yesterday's . . .

JUDGE: You do not have the right to submit objections. You may only submit petitions.

STERN: Well, all right, let this be a petition. On December 23 an incident occurred which resulted in my being evicted from the courtroom. My son had every reason to suspect that witnesses were being prepared to slander me. Harmasar, Huzhva, Leonida Manzhievsky and Rybachuk are the chief witnesses for the prosecution. Why didn't they go to the office like all the other witnesses? When this incident was being investigated here, they should have been examined individually and not with all of them present in the courtroom and listening to each other's answers. When I wanted to speak up about this, the judge evicted me from the courtroom instead of hearing me out. I regard these actions as a case of impermissible psychological terror, and I demand that this terror be stopped.

JUDGE: What are the opinions?

PROSECUTOR: I believe that this statement is a good example of the way the accused is conducting himself at this trial, and it should be appraised by higher authorities. I think that it should be filed with the case.

DEFENSE COUNSEL: The accused has submitted two petitions. I support the first petition about summoning witnesses. As for the second petition, it was submitted without consultation with the defense, and I leave it to the court's discretion.

JUDGE: The court has decided to file this statement with the case. We shall decide about the witnesses later. We now begin examination of witnesses.

WITNESS HALYNA STETSENKO, RESIDENT OF VINNYTSIA

STETSENKO (*stands with great difficulty as she testifies and holds on to the railing*): I was under Dr. Stern's care for a long time. I was at Hospital No. 1, where he was the doctor, back in 1961. He was very good to me and called in consultants. In 1962 he was not my doctor any more. But he saw my name in the registry and told my doctor to treat me better. I was in the in-patient department. All the doctors treated me, but Stern was the best. He sympathized with me as if I were a relative. I begged all the doctors, "Help me, I'm a poor woman." He was the only one who helped. He spent his own money. He was always saying, "We have to think how to cure you." (*Weeps*)

PROSECUTOR: How did you happen to be at Stern's apartment during the search?

STETSENKO: I went to see him to ask how to take the medicine. But I was arrested. They kept me at the militia station the whole day. I'm ill. . . . (*Weeping*)

STERN: How many times did I refer you to the hospital or to the Medical-Labor Board?

STETSENKO: Many times.

STERN: Did I demand anything from you for this?

STETSENKO: No.

STERN: You visited the Health Center very often. What talk did you hear about me in the waiting room?

STETSENKO: Everyone said that you're a very good doctor.

JUDGE: No more questions. You are free.

STETSENKO: Doctor, thank you for everything. (*Sobs as she leaves.*)

STERN: To reduce a sick person to this condition! That's worse than callousness. As a doctor and a human being, I am outraged . . .

JUDGE: Easy, Stern, easy! There's no need to shout. This is a court, not a public meeting. And the person on trial is you, not she. We'll get to the bottom of everything. Next witness!

WITNESS OLHA PSHYK, BORN 1927

FROM THE INDICTMENT:

The material in the case file indicates that M. Stern, the Director of the Outpatient Clinic of the Endocrinological Health Center, lost the moral fiber proper to the head of an institution and a doctor and did not balk at any

methods for the sake of personal profit. By means of extortion he obtained from O. Pshyk a chicken and other produce for treating her son Anatoliy.

PSHYK: About five years ago I came here with my son Anatoliy who was referred by our local doctor. We were seen by Stern. He examined him, prescribed pills, and began to treat him. Everything was normal. I received a prescription and bought everything at the pharmacy.

PROSECUTOR: You thanked the doctor.

PSHYK: Yes.

PROSECUTOR: How?

PSHYK: For helping me and being good to us.

PROSECUTOR: My question is how and not why.

PSHYK: All I did was say thank you.

JUDGE: What did you tell the investigator? I can read it.

PSHYK: Please read it. I didn't give him anything. He didn't demand anything.

JUDGE (*reading*): "I gave him a chicken."

PSHYK: God forbid! I never did! I'll go to the investigator straight away and tell him he should be ashamed of himself for writing such things. Everything about the chicken is false.

JUDGE: Did you say this to Investigator Andrushchuk, who interrogated you on September 5?

PSHYK: I didn't say this.

JUDGE: Write that down. Is this your signature?

PSHYK: This is my signature, but I didn't see it. He read it, but I never said anything about a chicken.

STERN: Would you tell us, witness, who saved your husband?

PSHYK: You did. (*Weeping*) He was paralyzed.

MILITIAMAN: Urbansky has arrived.

JUDGE: Have Urbansky go away and come back tomorrow. (*After a pause*) Witnesses Bronstein, Vaiser, Pylsky, Livshits, Volynkina, and Euchmann, who were summoned for today, are absent. We will take measures to have them summoned tomorrow. To sum it up, five people have not been examined in the incidents under Article 168. Some of the people in the courtroom are passing on reports that witnesses for the prosecution are not showing up in court. Well now, of these five people four have certificates that they're ill. Only witness Lytovchuk is absent for unknown reasons. We will clear this up. Two people are absent for the incidents under the other article. One has a valid excuse. Also, sixteen people from the list of witnesses not connected with the incidents in the indictment have not appeared. Measures have been taken to

bring them here. We have a petition by the accused to summon another forty-seven witnesses for the defense. Twenty-nine of them were interrogated during the preliminary investigation. The remaining eighteen have not been interrogated at all. Stern, please explain your petition to the court.

STERN: I believe that since the prosecution had the opportunity to subpoena and examine a large number of witnesses—practically everyone it wanted to—I also have the right to demand that witnesses for the defense be summoned. I request that these forty-seven people be summoned.

JUDGE: That's clear. It's clear to me why you ask that these twenty-nine people be summoned. They were examined during the preliminary investigation. The investigator also found it necessary to examine them in your case. This is understandable. Why do you insist that the remaining eighteen people be summoned? Explain to the court about each of them individually. Well, for example, why do you want to summon Olena Tymoshenko?

STERN: I have to prepare my answer to this question. I shall give it tomorrow.

JUDGE: All right.

WITNESS DR. ESTHER LEVIT, BORN 1923, PEDIATRIC ENDOCRINOLOGIST AT THE VINNYTSIA ENDOCRINOLOGICAL HEALTH CENTER

LEVIT: I've known Mikhail Stern since 1963. I work as a pediatric endocrinologist and examine patients under fourteen. He was the director of our Outpatient Department.

PROSECUTOR: Do you, as an endocrinologist, buy medication for patients in pharmacies?

LEVIT: No. Pharmacies exist to sell drugs. This is not one of my duties.

PROSECUTOR: Do you yourself give patients injections?

LEVIT: Giving patients injections in the office is not one of my functions. There's a nurse in the treatment room for that.

PROSECUTOR: Have you treated patients with hormone preparations?

LEVIT: Yes, of course.

PROSECUTOR: Does the nurse at the Health Center inject hormone preparations?

LEVIT: I work without a nurse. If I prescribe hormones, this is usually a lengthy course of six to nine injections. They're given at the local clinics.

PROSECUTOR: Do other doctors use the services of a nurse in injecting hormones?

LEVIT: I can't say what other doctors do.

PROSECUTOR: Who sees inductees at the Health Center?

LEVIT: The director of the Outpatient Clinic and the therapists, who work according to a sliding scale. Two therapists see patients at any one time. For this we have doctors Bronstein, Slobodeniuk, Livshits and Hamarnyk.

DEFENSE COUNSEL: Have you had to see children over fourteen?

LEVIT: Rarely.

DEFENSE COUNSEL: In those cases when you had to, did you examine them alone or with their parents?

LEVIT: I never see children without their parents.

DEFENSE COUNSEL: Have you had to undress children in their parents' presence?

LEVIT: Well yes, of course.

DEFENSE COUNSEL: And what if the child is sixteen?

LEVIT: If the children aren't embarrassed, I examine them in their parents' presence. If the children are embarrassed, I ask the parents to leave.

JUDGE: Have you heard of cases when doctors gave patients injections in the office at the Health Center?

LEVIT: No, I have not.

JUDGE: Perhaps you know whether any of the doctors supplied patients with drugs?

LEVIT: I don't know.

JUDGE: Have you heard whether any of the doctors invited patients to their homes and continued treatment there?

LEVIT: No, I have not.

JUDGE: Did any of the doctors at your Health Center apply their own special method of treatment with hormone preparations?

LEVIT: We don't have any special methods. There are guidelines and instructions.

JUDGE: Are you familiar with Stern's method?

LEVIT: I don't know anything about such a method.

JUDGE: In your opinion, should an injection made on a doctor's orders be noted in the records?

LEVIT: Absolutely.

DEFENSE COUNSEL: If you prescribe a lengthy course of treatment with hormone preparations, is it recorded in the chart? Each injection, I mean?

LEVIT: We have a registration book where all injections should be recorded.

STERN: I want to give an explanation regarding the Judge's questions about the "Stern method." In treating hypogenitalism, I applied in each individual case a modification of known methods using hormone preparations which I believed to be most expedient and suitable for the given patient. I applied preparations that are known in endocrinology, but the combination of preparations was always the result of my personal creative approach to the treatment of the given patient. I've already said that you have to treat a patient and not a disease and that the treatment cannot be based solely on instructions and directives. Hence I request that you speak about my modifications, and not about the "Stern method."

JUDGE: You raised this question yourself. You mentioned the method.

STERN: It's a matter of terminology. My modification has not produced a single case of side effects. . . .

JUDGE: No one says that you're being accused of malpractice. This is a slander against our country which is being broadcast by radio stations. Certain people sitting in this courtroom are interested in this. You are being tried on different charges.

In the evening, when the day's proceedings have ended, Victor and August Stern are summoned to Vasilyev, the Director of the Vinnytsia Department of Communications, who tells them that their telephone has been disconnected under Article 74 of the Soviet Communications Code. Article 74 allows the authorities to disconnect a telephone if it is being used to transmit information with an "anti-State objective." Despite numerous requests to explain why the telephone has been cut off, Vasilyev gives no reason but simply repeats, "You know yourself why." That same day Victor Stern sends the following statement to the Vinnytsia Provincial Court.

Judge Orlovsky
Vinnytsia Provincial Court

December 24, 1974

A STATEMENT

You stated in court today that there are people present in the courtroom who are passing on to the West slanderous information to the effect that Stern is on trial for poisoning and malpractice. In the evening the director of the municipal telephone exchange informed us that our apartment telephone had been disconnected on the basis of Article 74 of the Soviet Communications Code, which mentions measures to be taken when telephones are used for

anti-State purposes. I believe that this is not a coincidence and connect the cutting off of our telephone with your statement.

In connection with this I draw your attention to the fact that the information about the poisoning of children actually came from the employees of the Vinnytsia Provincial Prosecutor's Office who conducted the preliminary investigation. This is confirmed by the following:

1. At a confrontation with Stern, witness Overchuk claimed that he is a spy and is paid to commit malpractice (volume 1, case sheet 117).

2. Last September, citizens Soloviychuk and Tymoshenko stated that employees of the Prosecutor's Office had informed them that Stern had "poisoned" their children. This fact is recorded in complaints by our family to various official organs.

3. The case file contains numerous statements by victims in which they express doubt whether Dr. Stern's treatment was proper (Matvienko and others).

4. My father frequently requested the court to explain to each witness that he has not been charged with poisoning and spying.

Thus the responsibility for the fantastic idea about my father's sabotage, which is being spread throughout the province and which is possibly reflected in the Western radio broadcasts to which you refer, lies with the staff of the Prosecutor's Office and has absolutely no connection with the relatives of the accused who are attending the trial or with the functioning of our apartment telephone.

Victor Stern

cc: Supreme Court of the Ukrainian SSR, Kiev

WEDNESDAY, DECEMBER 25, 1974

Day Eleven of the Trial

JUDGE: The accused has submitted a petition several times to summon additional witnesses. The defense has presented a list of forty-seven people. Twenty-nine of them were interrogated during the preliminary investigation. The case file contains no data about the others. Accused, explain to the court your reasons for wanting to summon the other eighteen witnesses. Speak about each of them individually, why you

want us to examine this person, and the court will decide. Speak concretely.

STERN: Olena Tymoshenko is my former patient. She can supply additional information about some of the episodes in the indictment.

Stanislav Slavsky. I request that he be examined concerning the Huzhva episode. He is possibly the only patient who was present and can confirm what I said about the incident with the stolen watch.

Bilynsky. I had a similar incident in 1960. Anti-Semites wrote several denunciations about me, and the Prosecutor's Office was concerned with me. Without any results. There was an article in a newspaper. I was given a Party penalty, which I complained about, and it was cancelled. Bilynsky was the only name mentioned in this article. She can relate how the case was handled then, what methods were used. She is very important for my defense.

Zinchuk is a nurse. I want to use her evidence to show why ignoramuses such as Zelinsky are persecuting me. They are the source of the initial information that was used by the organizers of this anti-Semitic trial. The testimony of this witness is needed to establish that Zelinsky is interested in having me convicted.

JUDGE: Accused, I caution you not to use such expressions.

STERN: Until now I have been convinced of the court's objectivity, and I hope that it will not submit to the influence of anti-Semites.

Savchuk. In 1960 she was subjected to pressure by investigators who were trying to collect evidence against me.

Serebrovsky is a teacher. I want her to be examined to establish my character, which was slandered throughout the Ukraine by a circular from the Minister [of Health].

Andreeva is a psychologist from Moscow. She came here before the start of the trial and asked to be examined as a witness. She has been informed about matters since 1960.

Strizhevsky is a doctor from Vinnytsia. She can explain how I rendered consultative assistance in a completely disinterested way to many patients over a long period. She can also comment on the professional competence of the staff at the Medical Institute who supplied the material for the case against me.

Schwarzburg is a doctor at the VD clinic. He can tell how I gave his clinic completely disinterested consultative assistance.

Asher Grinshpun is a Doctor of Medical Sciences at the Vinnytsia Military Hospital. I want to summon him to clear up the incident with the wife of Colonel Maleev and to comment on the incompetence in endocrinology of the staff at the Medical Institute.

Maria Soloviychuk is a witness who was suborned to give false evidence and who openly spoke up about this. I want her to be examined to determine who is responsible for spreading rumors among patients that "the spy Stern poisoned Soviet children."

These are the witnesses that I demand be summoned. And the other twenty-nine who were interrogated during the investigation. I don't insist on the others.

PROSECUTOR: Stern is basing the summoning of additional witnesses on the following three reasons essentially. First, to establish his character. Second, to characterize his relations with Zelinsky. And third, in regard to various aspects of treating patients. I can say in this respect that first of all Stern is not being accused of malpractice. Second, Zelinsky does not figure in the case material, and there are no indications that he instigated this trial, as Stern alleges. And third, Stern's character is already sufficiently clear from the testimony of the witnesses who have appeared. I believe that this petition cannot be granted because some of the questions mentioned do not need to be explained, and others have already been answered.

DEFENSE COUNSEL: I support the petition by the accused to summon the witnesses. I particularly want to emphasize the necessity of summoning Slavsky in the Huzhva episode because his testimony will be very important for the defense and for an evaluation of the reliability of Huzhva's testimony.

JUDGE: Having conferred on the spot, the court has ruled the following: First, not to summon the witnesses on the list presented by the defense since none of them has any testimony regarding any items in the indictment. Second, to summon Victor Kot since he has arrived already, and also Stryzhevsky, Schwarzburg and Stanislav Slavsky.²⁶ In connection with the summoning of Slavsky, to summon witness Huzhva to court.

WITNESS RAISA ZAKHARCHENKO, BORN 1925, MEDICAL CLERK
AT THE VINNYTSIA ENDOCRINOLOGICAL HEALTH CENTER

ZAKHARCHENKO: My relations with Stern were good and regular. I can speak only well about him. He's a very tactful person. He always had many patients.

PROSECUTOR: Do you know what he's been charged with?

ZAKHARCHENKO: I do, but I don't know anything about any facts he's being charged with.

DEFENSE COUNSEL: Why did he have many patients?

ZAKHARCHENKO: He enjoyed great authority as a physician.

STERN: You often worked at the reception desk. Tell me, was it difficult to get to see me?

ZAKHARCHENKO: No, it was easy.

STERN: Did I create any difficulties for patients who wanted to see me?

ZAKHARCHENKO: No, you did not.

STERN: Please tell the court, what forced you to quit your job after you had worked at the Health Center for so many years?

JUDGE: Don't answer. The court strikes this question.

WITNESS VICTOR KOT, BORN 1939, DIRECTOR OF THE CITY HOSPITAL

KOT: I worked with Stern from 1970 to 1974. He is a highly qualified endocrinologist.

JUDGE: Do you know anything about Stern's abuses?

KOT: I do not.

PROSECUTOR: Do you receive patients?

KOT: Yes.

PROSECUTOR: Do you carry out treatment and make injections yourself?

KOT: No, that's done by a nurse.

PROSECUTOR: Why?

KOT: Because doctors don't do this.

PROSECUTOR: Do you obtain drugs for patients at pharmacies?

KOT: No, that's not permitted.

PROSECUTOR: Do you issue drugs to patients in the office?

KOT: No, that's not permitted either.

STERN: Do you know of any cases where patients had difficulty in getting to see me or where I made difficulties?

KOT: All the patients applied to Stern. He assigned them to specialists if this was necessary. There were no hindrances.

STERN: What can you say about me as a man?

KOT: Stern was very active in the community. He gave consultations. He enjoyed great authority with the population. . . .

JUDGE (*interrupting*): Is a doctor acting properly if he gives injections in his office and does not record them in the log?

KOT: No, that's wrong. They should be recorded.

JUDGE: Does a doctor have the right to obtain medication and to sell it to patients in his office?

KOT: No, he doesn't have the right. He should write out a prescription.

JUDGE: Have you encountered cases when a doctor received a patient and then continued to receive him at home?

KOT: That's private practice. No, a doctor doesn't have the right to do this.

JUDGE: Did you know that Stern was doing all this?

KOT: No, I did not.

DEFENSE COUNSEL: If a patient came to you, would you treat him at home?

KOT: No, that's not permitted.

DEFENSE COUNSEL: Even if he's critically ill?

KOT: No, that's not permitted.

DEFENSE COUNSEL: I have no questions.

STERN: I want to make a certain elaboration. There are no directives from the Ministry of Health forbidding a doctor to give patients injections of drugs he has obtained himself if the given drug is not available in the pharmacies. A doctor has the right not to interrupt a course of treatment in the patient's interest or to begin emergency treatment promptly, this being especially important during the period of sexual development when every month of delay is important, or to offer patients treatment with drugs that belong to the doctor. There are no prohibitions against this, and as for the moral aspect of such actions, I have my own view of it, and you have yours, but in any case this is not within the competence of the court.

The isolated cases when I continued treatment of patients at home are in no way illegal. A patient has the right to reach an agreement about this with his doctor, and this is not forbidden. There are no regulations that a patient who has begun treatment in a medical institution must complete it there and may not complete the treatment at the doctor's home. And here's why. You probably have in mind the incidents with Baida and Prybiha, who stated both at the investigation and in court that they wanted to be treated outside the office because they didn't want to miss school and so preferred to come for injections on Sundays.

JUDGE: Why didn't you record the injections in the log?

STERN: There never was a log at the Health Center. It appeared only after I was arrested. No records of injections were kept.

JUDGE: Do you as the director of the Outpatient Health Center think this was normal?

STERN: I see no crime here. The prescribed treatment was recorded in the patient's chart, and there was no need to record each injection.

JUDGE: Do the entries in the charts correspond to the injections you gave patients?

STERN: At times yes and at other times no. As a doctor I was interested least

of all in a piece of paper. I was concerned about the treatment. Patients who came for treatment sometimes wouldn't get a chart at the admissions desk, to save time, because there were long lines there. But the patient would get the injection he needed even without a chart. In such cases the injections were not recorded. Sometimes I also refrained from making an entry because I was applying combined hormones, and I didn't think it was necessary for the staff at the Medical Institute to know about my modified treatment before it was published.

JUDGE: Were you justified in applying your modified treatment before it was officially approved by the appropriate authorities?

STERN: My modification used hormone preparations which are all known and permitted for sale. Any doctor, including myself, has the right to use combinations of these preparations if they are officially approved for use. Take antibiotics, for example. There's penicillin, streptomycin, and others. Any doctor can use them in any combination, and he won't be put on trial for this.

JUDGE: You mentioned the names of several foreign preparations?

STERN: I didn't mention them. The patients did.

JUDGE: Did you conduct private consultations?

STERN: In a certain sense, yes. As a doctor, I have not only the right but the duty to provide help regardless of the time when I am approached, whether day or night, and regardless of the place—in the street, at my home, or at the Health Center. I repeat once again that in my thirty years of practice I never made medical assistance conditional upon any remuneration. But if a patient thought it necessary to show his gratitude, that was his personal business.

JUDGE: Were you authorized to have a private practice?

STERN: I didn't apply for authorization.

JUDGE: Then you didn't apply to the financial authorities in this matter?

STERN: This is not within the competence of this court. This is not a crime under civil law.

JUDGE: The court gives you a reprimand. You do not have the right to tell us what is within our competence and what isn't.

PROSECUTOR: Were the names of the foreign drugs important to your patients?

STERN: I don't understand your question.

PROSECUTOR: Why was it necessary to tell patients that a drug was of foreign origin?

STERN: I never made a point of drawing a patient's attention to it. The talks about Dutch injections were for the most part fabricated by the investigation.

The courtroom is depressingly empty: a sleepy militiaman at the door, the members of the family of course, plainclothes agents, and no audience. The reason for this becomes clear quite by accident. Unable to wait for a recess, Ida Stern leaves the courtroom and discovers a cordon of militiamen holding back a crowd of people who want to get in and shouting at them, "There are no empty seats! All the seats are taken!"

WITNESS RIVA BALMAZIA, BORN 1914, SENIOR NURSE AT THE HEALTH CENTER

BALMAZIA: I've known Stern for about ten years, since the Health Center was set up. He's an extremely conscientious doctor, very sensitive with his patients, a very responsive man. He always tried to have order at the Health Center. Stern enjoyed great authority. Everyone tried to see him. He never paid attention to time or to anything else. He always saw everyone who came to him. There was a case when a woman patient didn't have money for drugs, and he gave her his own. The patients liked him very much.

PROSECUTOR: What is the procedure for distributing drugs at the Health Center?

BALMAZIA: I am the senior nurse. I would write out drugs for the entire hospital. I would write out the prescription, and the head physician would sign it.

DEFENSE COUNSEL: Who is your immediate supervisor?

BALMAZIA: The head physician at the Health Center.

DEFENSE COUNSEL: Do you know of any cases when orderlies were called to account for theft?

BALMAZIA: No, I don't.

DEFENSE COUNSEL: Perhaps one of the visitors was convicted of theft?

BALMAZIA: Yes, I remember there was such a case. This happened long ago, last year, I think. A man dashed out of Dr. Stern's office. He was cursing terribly so that everybody in the clinic heard him. He cursed Stern and dashed out into the street. I was scared. When I went over, patients said to me, "He's a drunkard. He reeks of vodka." Stern came out and said, "He stole my watch, and I pulled it out of his pocket."

DEFENSE COUNSEL: Were there any other visitors?

BALMAZIA: The Outpatient Clinic was full of people.

DEFENSE COUNSEL: And what about medical staff?

BALMAZIA: I don't remember.

DEFENSE COUNSEL: Do you have this happen very often?

BALMAZIA: No. As far as I can remember, this was the only time.

DEFENSE COUNSEL: Would you recognize him?

PROSECUTOR *is highly agitated, and knots of muscles move in his jaw.*

STERN *scornfully looks at the JUDGE.*

CLERK OF THE COURT *stops taking shorthand and turns to look at BALMAZIA.*

DEFENSE COUNSEL *freezes in expectation of the answer.*

BALMAZIA: I caught only a glimpse of his face. Mostly I saw him from the back. But perhaps I would recognize him. I don't know.^{27*}

JUDGE: (*jumping up from his seat*): Everything is clear! Sit down here! In the first row! Don't go anywhere! We shall need you again! Next witness!

WITNESS LARISA PILSKY, BORN 1926, EMPLOYEE OF THE HEALTH CENTER

JUDGE: What can you say about Stern?

PILSKY: He's a very good doctor. He was the director of the Outpatient Clinic. Everybody had a very good opinion of him. He was fair with everybody. A good comrade . . .

PROSECUTOR: Do you know that this good comrade took money from patients?

PILSKY: No.

STERN: Tell me, does the prosecutor have the right to put questions in such a tone and in such a form?

JUDGE: Accused, you are interfering with the court's proceedings. If something is wrong at the trial, we shall make a reprimand ourselves without your pointing it out. Next witness!

WITNESS DR. TSILIA BRONSTEIN, BORN 1930, ENDOCRINOLOGIST AT THE HEALTH CENTER

BRONSTEIN: I've known Stern . . .

The courtroom is suddenly filled with music. Victor Stern has accidentally pressed the wrong button on his tape recorder.

*The confrontation between BALMAZIA and HUZHVA will not take place. Neither appears again in the courtroom.

JUDGE: What's that? Who's playing?

VICTOR STERN: It's out in the street.

A SPECTATOR: It's outside the door.

BRONSTEIN: . . . I've known Stern as a good doctor and an efficient man. He was always ready to give advice.

PROSECUTOR: Did you see patients with hypogenitalism referred by the Military Board?

BRONSTEIN: Yes. I performed the preliminary examination and then sent them to Stern for a final diagnosis.

PROSECUTOR: Who established this procedure?

BRONSTEIN: The administration.

PROSECUTOR: Did you treat such patients?

BRONSTEIN: Sometimes, but more often I would consult with Stern as a more experienced person.

DEFENSE COUNSEL: Did adolescents from the Military Board come alone or with their parents?

BRONSTEIN: Sometimes with their parents.

DEFENSE COUNSEL: Did you undress them in their parents' presence?

BRONSTEIN: Yes.

DEFENSE COUNSEL: Why?

BRONSTEIN: The course of treatment is carried out at home. Parents have to observe the effect. Also there are certain explanations and advice regarding this which can be given more effectively to the father or mother than to the adolescent.

STERN: What results did you see when my modification of the hormonal method of treating hypogenitalism was applied?

BRONSTEIN: Effective ones for the most part. Sometimes the results were striking.

WITNESS ANNA EUCHMANN, BORN 1949, RECEPTIONIST AT THE HEALTH CENTER

DEFENSE COUNSEL: What are your duties?

EUCHMANN: I register patients for admission.

DEFENSE COUNSEL: Patients for assessment?

EUCHMANN: No, all patients.

DEFENSE COUNSEL: What do they present to you?

EUCHMANN: Patients for assessment give me a referral. Patients who have been here before don't show anything.

DEFENSE COUNSEL: Do patients sometimes come without referrals?

EUCHMANN: They do.

DEFENSE COUNSEL: Where do they come from?

EUCHMANN: From the regions in the province.

DEFENSE COUNSEL: Can a patient be admitted if he does not have a referral?

EUCHMANN: With the permission of the head physician or the director of the Outpatient Clinic.

DEFENSE COUNSEL: In what cases is this permission given?

EUCHMANN: I don't know.

STERN: How did patients get to see me?

EUCHMANN: Whoever wanted to. If they asked for you, I put them down.

STERN: Was this difficult?

EUCHMANN: No, you took everybody.

STERN: Did I see all the patients, or did I put them off until the following day if I didn't have enough time?

EUCHMANN: No, you saw everybody registered to see you the same day. You often worked long after hours.

STERN: Were there days when I had to see up to eighty people a day for other doctors?

EUCHMANN: Yes.

JUDGE: Do you know why Stern was arrested?

EUCHMANN: There are rumors that he was arrested for taking bribes. I don't know anything about this.

JUDGE: We should have another witness—Potoker, the secretary of the Party organization at the Endocrinological Health Center. He sent a certificate that he had a heart attack at the beginning of the year and went on sick-leave in May. What are the opinions?

DEFENSE COUNSEL: The defense insists that the witness be summoned. He was on sick-leave in May, not now. If he is well enough to go to work, then I think he can appear in court.

JUDGE: I agree. We will take measures to have Potoker brought to court. There is also a letter from witness Volynkina to the Prosecutor. It isn't clear why it's addressed to the Prosecutor. After all, we weren't summoning her to court. She says in this letter that she is ill and asks not to be summoned. She has described everything she could say about this case, and she says that she has nothing to add. I shall read her letter, and then we can decide whether to have her summoned.

Deposition by Volynkina: “. . . My grandson was treated by Stern. I had three vials of scarce drugs left over after the treatment. I wanted to return them to the pharmacy because the expiration date was approaching, but I was told there that drugs are not accepted from the population. Then I

phoned Stern and gave him these vials at fifteen rubles each. I am very grateful to the doctor. I wanted him to be able to help someone else the way he helped my grandson. It would have been unforgivable to throw out these scarce drugs. I am very ill now and request that I not be summoned to court. I told the investigator the whole truth, and I am repeating it in this letter. . . .”

DEFENSE COUNSEL: I still request, if there is an opportunity, to summon citizen Volynkina to testify. The point is that there are important questions which need to be cleared up. . . .

JUDGE: Very well. We shall make a decision about summoning her to court. The court will recess.

After the recess.

WITNESS DR. ARKADIY SCHWARZBURG, BORN 1914, PHYSICIAN AT THE VD CLINIC

DEFENSE COUNSEL: Have you know Stern for a long time?

SCHWARZBURG: For many years.

DEFENSE COUNSEL: Is there an endocrinologist at your clinic?

SCHWARZBURG: No, but we often invite Stern for consultation. He’s a very experienced specialist.

JUDGE: Do you know anything about his criminal activities?

SCHWARZBURG: No. He’s a very good doctor. I even sent my wife to him for treatment. I wouldn’t have done this if I didn’t think this was so.

JUDGE: Do you know why he is on trial?

SCHWARZBURG: I don’t. I know him to be an absolutely honest doctor.

MILITIAMAN: Urbansky and a woman witness have arrived.

JUDGE: Tell Urbansky to leave and come back tomorrow. Call the woman in.

WITNESS SHENDELA STRIZHEVSKY, BORN 1921, DEPARTMENT HEAD AT HOSPITAL NO. 3

STRIZHEVSKY: I’ve known Stern for a long time, many years, ever since he worked at the sanatorium. He is a very good doctor. He always gave us consultations. He treated my father. My father was always very satisfied with him. He never refused to give our hospital a consultation.

STERN: Tell me, did you ever call me at night for consultations?

STRIZHEVSKY: Yes, very often at night.

STERN: Did I receive any money for these consultations?

STRIZHEVSKY: No, always free of charge.

PROSECUTOR: Tell me, Stern, do you admit receiving money in even one case?

STERN: I do not admit guilt in a single case. I can explain every incident.

PROSECUTOR: How do you explain your testimony during the preliminary investigation?

STERN: In principle I admit that I could I could have taken two boxes of choreogonin from Volynkina and given them to someone else for the same amount I had given for them, although I don't remember this. No one is forbidden either to administer and observe injections or to buy preparations for people when they're not available anywhere. I did this in the patients' interests, and now I'm being accused of this.

PROSECUTOR: Have you requested that Article 168 be requalified?

STERN: You apparently read only half of the statement that I wrote. I wrote that I hope my complete innocence will be established in court. I was in prison for three-and-a-half months after my arrest before I was interrogated. I don't want to raise an unnecessary hullabaloo by speaking about the conditions in which I was held.

JUDGE: It's no resort . . .

STERN: Nor is it hard labor . . .

JUDGE: Nor is it a resort . . .

STERN: Nor is it hard labor. . . . I believed that none of the fabrications about me in the case file can ever be qualified as bribe-taking. Only officials can be charged with that, and I am not an official. I thought that this would become evident in court. I do not plead guilty, and I believe that the case against me is a reprisal for my desire to leave the country.

JUDGE: Your desire or your sons' desire? You haven't mentioned before that you want to . . .

STERN: Do you really think that I shall stay here after this?

PROSECUTOR: Who has the job of seeing that internal regulations are observed at the Health Center?

STERN: Our Health Center is very small. There is only one administrator—the head physician. I was involved only in medical matters. I did not serve any administrative function either in regard to orders issued to the Health Center or in regard to financial matters.

PROSECUTOR: Who supervises the examinations and the care administered to patients?

STERN: According to the medical plan, control is exercised only from the

point of view of diagnostics. All the doctors could ask for my advice. General control was exercised by the head physician.

PROSECUTOR: Who made sure that the doctors recorded all medical acts in the charts?

STERN: Every time a patient is examined all the doctors, including myself, make notes on the charts. It's the doctor's direct duty. There is no supervision of it.

DEFENSE COUNSEL: Did you issue orders for the entire Outpatient Department of the Dispensary?

STERN: I never issued any orders or directives. I never filled any administrative function, and I never had to.

THURSDAY, DECEMBER 26, 1974

Day Twelve of the Trial

JUDGE: The court has on its own initiative studied the order that it obtained from the Military Board issued by the Ministry of Defense which confirms the Directives for Medical Examination of Military Personnel and Army Reserve Personnel.

The court has on its own initiative obtained from the Vinnytsia Provincial Department of Health a list of the staff and information about the Outpatient Clinic of the Vinnytsia Provincial Endocrinological Health Center.

It turns out that witness Potoker is ill. We shall read his testimony into the record. Potoker, Secretary of the Party organization at the Health Center, X-ray technician, testifies about Stern: “. . . Stern was arrogant, liked to show off . . . and gave himself airs. He upset the departure of Health Center staff for the beet harvest. He frequently did not appear at Party meetings. . . . There were rumors about extortions and bribes, but I personally did not hear about this from patients. . . .”

STERN: I am convinced that the testimony would be completely different if he were here. There's a lot of obvious juggling with facts in Potoker's testimony, and a lot of it has absolutely no basis in reality. But since this has no bearing on the episodes in the indictment, I shall not give detailed explanations.

JUDGE: Were you given a Party penalty?

STERN: Yes. In 1960, I was the victim of a similar campaign of persecution. . . .

JUDGE: The court is not interested in that. Were you given a penalty?

STERN: Yes, and I'm trying to explain it. It was later rescinded.

JUDGE: If it was rescinded, then that's all. We are no longer interested in this. . . . The following witnesses have not appeared: Zhuransky, Karpinsky, Bylykh, Narkombelo, Timofeeva, Volynkina, Polishchuk, Divochka and Slavsky. Thus nine people have not appeared. What are the opinions of the parties about concluding the proceedings without these witnesses?

PROSECUTOR: It seems to me that everything is clear. I think it is possible to conclude the court proceedings.

DEFENSE COUNSEL: I insist that Volynkina be summoned to court or that her testimony be read into the record.

STERN: I agree about reading Volynkina's testimony, but I insist that Slavsky and Timofeeva be summoned to appear in court.

JUDGE: Are there any other remarks?

PROSECUTOR: I request that an excerpt from a directive by the Vinnytsia Provincial Department of Health dated November 12, 1974 be read into the record. The directive deals with deficiencies in the work of the Endocrinological Health Center and says among other things: "Head Physician Urbansky, who displayed shortsightedness and permitted bribe-taking and swindling to flourish at the Clinic, is to be issued a severe reprimand and warning. . . ."

STERN: I don't understand how a directive about my "abuses" could have been issued while the preliminary investigation was still under way and the trial was a month away!

DEFENSE COUNSEL: I request the court to turn its attention to a document in the case file and to which I shall refer in my speech for the defense. This is an order by Investigator Kravchenko not to start criminal proceedings against witnesses who gave Stern bribes. The investigator does so for the following three reasons: one, extortion took place; two, all the witnesses stated voluntarily that they had given Stern bribes; and three, all the bribers sincerely confessed and repented. I direct your attention to the fact that these three points are mutually exclusive.

STERN: I want to add something. First, why I treated patients and gave them injections myself. My modification of the hormonal treatment of hypogenitalism required that this be done only by the doctor.

JUDGE: This has no bearing on the episodes in the indictment. No one is accusing you of malpractice.

STERN: But why did both you and the prosecutor ask all the witnesses about this?

JUDGE *does not answer.*

STERN: The second thing I wanted to speak about is the Party penalty the judge asked about. I had a similar case in 1960 . . .

JUDGE: Do not speak about this. The court knows. The penalty was cancelled, and we are not interested.

STERN: I must speak about this. This has a bearing on the case. The Prosecutor's Office and the KGB were involved then, too. They interrogated hundreds of patients and—just like this time—couldn't come up with anything as evidence to start a case. The difference between 1960 and 1974 is my sons' desire to emigrate, which supplied the opportunity to persecute me. I expect that the court will examine everything and will not permit a reprisal against me.

JUDGE: Accused, no one is planning a reprisal against you. We'll look into everything. This is why we have gathered here. We'll look into everything with complete objectivity. We will try you according to our Party conscience, our civic duty, and our duty to our homeland.

STERN: I have further petitions. My mother is eighty-seven. I request the court to apply to the MVD with a request to let me see my mother. I have not been allowed this until now. And they didn't register . . .

JUDGE: Your petition is clear. There's no need to speak about it. There are people in the courtroom who are recording everything and then passing it abroad in a distorted form.

STERN: One more petition. I request the court to render a decision about appointing another consilium of doctors in regard to admitting me to the prison hospital. The previous consilium, which consisted of physicians from the MVD, was limited to a formal examination and I was not given a prescription. The only result was the conclusion that I could take part in the trial. Later, thanks to the court, a phthisiologist visited me, made an examination, and gave all the necessary prescriptions. But I still haven't received a single pill, although about ten days have passed. I am a physician. I know about my condition, and I understand what is in store for me if I don't stop coughing blood.

JUDGE: What are the opinions of the parties regarding the petition?

PROSECUTOR: The question of treatment must be taken up with the medical staff at the prison, and as for the meeting with relatives—that's the court's right.

DEFENSE COUNSEL: I support Stern's petition.

STERN: I have a petition regarding . . .

JUDGE: I request that you not read your petitions because a recording is

being made in the courtroom and it will then be misinterpreted. Submit them to the court, and we shall look into them. Having conferred on the spot, the court rules to file the petitions from the accused with the case. As for the meeting—after the verdict. The court proceedings are finished. The parties will please prepare themselves for the final argument.

After a recess.

PROSECUTOR'S SUMMATION

JUDGE: Comrade Kryvoruchko, Senior Counselor of Justice and Assistant Prosecutor of the Vinnytsia Province, may speak in support of the State's prosecution.

PROSECUTOR: The court proceedings are finished. Now we can sum up our two weeks of work. I should like to say first of all that the present case poses no difficulty for you, the members of the Judicial Collegium. This is a very simple case of bribery and extortion. This case is no different from other uncomplicated cases that you have examined in this courtroom. But the accused and certain interested parties have created a tense situation around this unremarkable case, which does not differ from other similar cases. This situation, as you know, even included various forms of blackmail, provocation, and slander.

The accused has advanced the theory that this case is supposedly the result of his sons' decision to leave the country and that the criminal proceedings against him were instituted by malicious professional enemies who wanted to get rid of him. But these arguments of his, like the voice of one crying in the wilderness, found absolutely no confirmation in the evidence that the court examined. Simple Soviet citizens who were examined in court—collective farmers, workers, pensioners, and teenagers—simply and convincingly related why and in what circumstances they gave the accused money. In answer to the questions posed to them, they replied that nobody had asked them to give such testimony and that they were relating what they knew and what they had done.

The court hearing has established that the accused did in fact use the knowledge he received free of charge in medical school, did use his practical experience and his profession, which is the most humane and useful for mankind, as a source of personal profit. And where did he do this? In a country where the Constitution guarantees the right to free medical treatment in the interests of strengthening the health of Soviet citizens.

Stern betrayed the Hippocratic oath. This extortionist profited from other people's troubles and suffering. He lost the pure conscience and good heart of a physician, and his greedy hand became a paw which tore away money from children, for some of whom it was perhaps the only means of existence. This Aesculapius—god of medicine—was not squeamish about accepting anything—currants, eggs or fowl. Everything's business. The Stern kitchen made use of everything that came its way. To prove that this is not a matter of unwarranted claims, I refer to the statements of several witnesses, for instance Sushko, Overchuk, Huzhva, Pshyk, Matvienko, Korol, Nechyporuk and Malyshevsky.

It's true that in response to immodest requests by the accused—he wasn't even ashamed to fish for compliments—some witnesses replied that they had thanked him for the treatment. This is completely natural. Thanks should be expressed. Soviet people thank doctors who save their lives or restore their health. But they thank them in a modest Soviet fashion and not in Stern's fashion! Today they want to use this State tribunal to express their indignation. They call Stern a bribe-taker and narrow pedant. It could not be otherwise because in our country such actions by doctors contradict the principles of socialist morality and violate Soviet laws. Over there, in the West, anything can be turned into a business, including human suffering and misfortune. But in our socialist motherland, this is punished by law in the interests of strengthening the health of every Soviet person. . . .

The prosecutor speaks for over an hour, making use of typewritten notes. His speech almost completely reproduces the indictment. He concludes by saying:

Comrade citizens, there stands before you the criminal who committed crimes against the State! Look into his eyes and you will see a greedy desire for profit. Profit, profit and more profit from the living and the dead—that's what is most important in his his life. That is his credo.

I request that you find the accused Stern guilty of crimes contravening Article 168, Paragraph 2, and Article 143, Paragraph 2, of the Criminal Code of the Ukrainian SSR and that you sentence him to nine years' deprivation of freedom with confiscation of his property to be served in a corrective-labor colony with a reinforced regime.²⁸ Such a verdict will see justice done.

JUDGE: The court will recess.

After the recess.

DEFENDING COUNSEL'S SUMMATION

JUDGE: Attorney Axelbant of the Moscow City Collegium, counsel for the accused, now has the floor.

DEFENSE COUNSEL: Comrade Judges! The time has come for me to present my point of view and my attitude toward the case. Throughout the trial proceedings the defense for Stern has not concealed its conviction that the evidence assembled by the investigation against the accused is not sufficient to place Stern on trial nor, moreover, to find him guilty. I was not involved in this case during the preliminary investigation. The law does not require me to support the position of the defense counsel who took part in that stage of the case. But even Skrypnyk, the first counsel, did not agree with the main issue—the presence in Dr. Stern's actions of a crime contravening Article 168, Paragraph 2, of the Criminal Code of the Ukrainian SSR—when he signed the record at the close of the preliminary investigation.

The State prosecutor has decided not to press charges against Stern in three incidents. I thank him for his kindness. But I completely deny everything that the indictment makes out to be a crime. There are many incidents. They are subject to analysis. This should be preceded by a discussion of certain circumstances which I want to refer to within a very limited framework. Without this we cannot evaluate the entire indictment as a legal document, and we cannot place a proper evaluation on the witnesses' testimony. It is very sad to speak about this, but I must. The law requires me to do so.

The whole thing began on May 15, 1974 when one of Dr. Stern's sons received permission to leave the country. Stern's stay in the dock, the searches, the massive interrogation of witnesses—all this began then and immediately took on, unfortunately, a very unattractive coloring. The most open and cynical expression of this occurred in the testimony of witnesses Overchuk and Matvienko. Suddenly there was a distinct repetition of the terrible times doctors lived through in the early 1950s. Rumors were spread about Stern's ritual murder of children. I cannot pass over this in silence, even though it is not mentioned in the indictment. But this is the background, this is the beginning of the case against Dr. Stern. This background has been overwhelmingly present in the courtroom. Thus before I analyze the case itself I must tell you who is in the dock, who Dr. Stern is.

How can opposites be united? What are the motives that led to

the building up of a case as notorious as the case of Mikhail Stern?

Stern became keen on endocrinology, one of the most complex fields of medicine, while he was still a student. He graduated from the Institute in 1944 and went to work in an army hospital. He was an experienced physician who loved his profession. He established the first endocrinological health center in Ukraine and for many years served as the director of its outpatient clinic.

Hundreds of people turned to Dr. Stern. He helped people with advice, medication and kindness. He won the love of people. But fame has its opposite. It is envied. This envy, which had turned into an unconcealed hatred, was particularly noticable throughout the trial. It was manifested by Dr. Stern's "colleagues," who rejoiced to see their "competitor" behind bars. This was true of expert Olnev. This is also true of expert Kuchuk.

I must also tell you at the outset that here in court the rights of the accused were, unfortunately, infringed upon: of the seventy-nine witnesses whom Stern and his defense counsel asked to be summoned, the court summoned only three.

During the investigation witnesses for the prosecution were subjected to measures which were not always permissible. I direct the court's attention to volume 2, case sheet 70, of the file, which contains special directives to all district prosecutors' offices in the province, signed by Vitaliy Kravchenko, the investigator in the present case. These directives clearly reflect the investigator's deliberate intention to bring charges against Stern. He ordered that witnesses be interrogated and asked the following questions: "In what manner did Stern demand money? How much money did Stern obtain?" Kravchenko also writes: "Please pay attention to the psychological aspects of the interrogations and explain to those interrogated the possibility of exonerating them from responsibility for offering bribes."

Forgive me for saying this, Comrade Judges, but to put it mildly and without spelling it out, this may be called a crime. This is a crime against justice. A crime doubly reprehensible because it was committed by employees of the organs of justice, who have been entrusted with the task of ensuring legality and justice. A crime triply reprehensible because the entire edifice of the accusation against Dr. Stern was erected on it. Elementary logic dictates that the law cannot be founded on lawlessness. Justice cannot go hand in hand with crime.

Returning to the essence of Kravchenko's special instructions, I want to say that it required no great insight to realize that certain things followed from this document sent by superiors. One, Stern is a bribe-

taker and swindler. Two, a thorough search for proof of his guilt is being undertaken. Three, almost four months after the doctor's arrest no such proof has yet been found. Four, though both the person who accepts a bribe and the person who offers a bribe are criminally liable, the latter is being absolved of this sin. In this manner one unscrupulous person who would succumb to the temptation of "getting back his own" might be found among the very many people interrogated. What the phrase "the psychological aspects of the interrogations" really means, only Kravchenko himself knows.

I should like to direct your attention, Comrade Judges, to the state of health of the accused. The interrogations continued despite a throat hemorrhage.

Neither during the investigation nor in court did Stern admit to any guilt. He didn't merely deny all the episodes he was charged with, but also explained every one of them in thorough detail. Even so, it is regrettable that Stern was not permitted to confront witnesses, as he so insistently demanded, although the investigators worked at their utmost capacity with a brigade of twenty-five assistants and interrogated two thousand people. Why? Everything I have said must make the court face the necessity of pondering the question: why is Stern behind bars? Should he shoulder responsibility for acts that were never committed?

Permit me now to proceed to an analysis of the factual circumstances presented in the indictment and for the most part examined during the court proceedings.^{29*}

The defense counsel speaks for three and a half hours to an unusually attentive audience. Hiding his face in his hands, Prosecutor Kryvoruchko sucks candy. Attorney Axelbant concludes his speech with the words:

I am finishing my speech. This should result in overwhelming data which the court cannot possibly ignore.

One. Neither the preliminary investigation nor the court hearing nor the witnesses' testimony have confirmed that Stern's actions have criminal content—that is, bribery or swindling as defined by Articles 168 and 143 of the Criminal Code of the Ukrainian SSR.

Two. The factual circumstances of the case are such that they can be interpreted not as a crime punishable by the Criminal Code, but only as private medical practice and voluntary payment for it.

Three. Stern has not and does not plead guilty. His arguments are

*Concrete episodes are found in the cassational appeal.

proven and weighty. The fact that witnesses were instigated to give negative testimony does not simply have a foul odor. This background is punishable by law.

Four. I expect that the court will have a suitable response to the actions of the Ministry of Health of the Ukrainian SSR, which stated in a special circular long before the trial, long before the investigation had been completed, that Stern had been involved in bribery and extortion and ordered that he be made the object of wide-scale condemnation by the medical community. This is the same background and the same odor.

Comrade Judges! I understand the position Stern has taken in refusing to plead guilty to any of the charges preferred against him. As you have been able to see, an indictment which at first glance appeared to be formidable has turned out to be legally groundless and unsubstantiated, and it has been completely demolished in the course of the trial.

I am convinced that elementary legal logic and the factual circumstances will demonstrate that an absolutely innocent man is standing before you. Not one of the episodes in the indictment brought against him involves punishable actions as defined by the Criminal Code. Stern was quite right when he said, "If paper could burn with shame, many of the documents lying on your table would burst into flames."

You have to decide not only Dr. Stern's future, but also the future of his entire family, of people who are close to him and who are waiting for this verdict and hoping that you will be able to put aside everything that is outside the Criminal Code.

I am convinced that after it studies the evidence in the criminal case against Stern the court will find him innocent, for only an acquittal will correspond to the truth.

When the defense counsel concludes his speech, applause breaks out in the courtroom for a minute and several of the plainclothes agents join in, apparently forgetting where they are and whose speech they have heard. One of them quickly collects himself and fearfully glances all around to make sure that he hasn't been noticed.

JUDGE: Does the prosecutor wish to make use of his right to rejoin?

PROSECUTOR: No, I do not.

JUDGE: The court will adjourn until ten o'clock tomorrow morning.

FRIDAY, DECEMBER 27, 1974

Day Thirteen of the Trial

Anxiety reigns in the courtroom at ten o'clock. The accused is to make his final plea today, but despite the hour he has not been brought from prison yet. For some mysterious reason, the chair of Alternate People's Assessor Shrepylo, whose function it is to replace the People's Assessor in case of illness or emergency, is also vacant. He has been seated here for the last twelve days, his feet tucked under him in a childlike way and his colorless eyes gazing at the judge and prosecutor. Everyone has become so used to his silent presence that now his empty seat appears sad and tragically absurd. Finally Judge Orlovsky enters the courtroom, wearing a freshly pressed black suit as if he were being called out on the carpet by important officials.

JUDGE: The court session is being adjourned to December 30 at ten o'clock because People's Assessor Podonenko is ill. Yes! (*Shouting at the spectators.*) Write it down and pass it to the West! Because he is ill!

MONDAY, DECEMBER 30, 1974

Day Fourteen of the Trial

Afraid of Stern's public statements, the authorities misinform the already small audience. Although the session was scheduled as usual for ten o'clock, Stern is brought in from prison ahead of time and the hearing begins an hour early.

At nine o'clock the courtroom is already packed with plainclothes agents and a group of workers from the local shoe factory who are puzzled to be here but are delighted to have the day off. Stern would have to address his final plea to them if it were not for the late arrival of the defense counsel, without whom the hearing cannot begin. Thanks to him the family of the accused is able to enter the courtroom.

The accused has been waiting for several hours. His usually chalky face,

which today has taken on a strangely earthen color, shows the superhuman effort he is making to stand upright. Finally the judge brings the long and painful wait to an end.

JUDGE: The accused may now make his final plea.

STERN: Comrade Judges, in his final plea the accused usually tries to defend himself. I do not defend myself—I accuse. ‘*J’Accuse*’ said the great Zola in the case of the Jew Dreyfus. So too do I accuse in the case of the Jewish doctor Stern. The accused has a right to make a final plea. I stand before you. I stand before the hundreds of thousands of people to whom I rendered medical assistance in my thirty years of practice as a physician. I am convinced, Comrade Judges, that on this memorable day I shall receive both your verdict and the verdict of hundreds of thousands of my former patients, thousands of sick people whose suffering I relieved.

I stand before you, Comrade Judges, with an absolutely clear conscience as a physician, a man, a husband, a father and a Soviet citizen. In my thirty long years of practice, I have never made medical assistance conditional upon any rewards. I have always been guided by the higher interests of successfully treating and curing patients. I leave all talk about my supposedly “immoral” practices to canting hypocrites and jingoists. I am profoundly convinced . . .

JUDGE (*to VICTOR STERN*): Victor, are you recording?

VICTOR STERN: I don’t understand . . .

JUDGE: Are you recording?

VICTOR STERN: Recording what?

JUDGE: The trial . . . the final plea.

VICTOR STERN: I don’t understand. What bearing does this have on the case?

STERN: . . . that the indictment compiled by Investigator Vitaliy Kravchenko is a thoroughly odious, unprecedented, and inadmissible example of a forged anti-Semitic document. It reminds me of the infamous *Protocols of the Elders of Zion*, a filthy slander against the Jewish people used by diabolical Hitler’s assistants, Goebbels and Rosenberg.³⁰ I hope that the court will get to the bottom of this.

Furthermore, the indictment against me is a model of both falsification and legal ignorance. I am reminded involuntarily of Karl Marx’s words that “ignorance will still bring mankind much evil.”

The State prosecutor’s speech made a painful impression on me. The prosecutor simply restated the indictment, as if the two-week trial had never taken place. My defense counsel’s brilliant legal argumentation literally knocked out the State prosecutor. It was only for this reason

that I was deprived of the pleasure of hearing the prosecutor's rejoinder.

Comrade Judges, no one here is claiming the laurels of Alexander the Great, but my defense counsel's speech, like the sword of that great military leader of old, has severed the Gordian knot of my so-called criminal case with one blow and convincingly demonstrated that there is absolutely no legal basis for instituting criminal proceedings against me.

Kryvoruchko, the representative of the State prosecution, has undertaken to use unworthy means. He has tried to depict the odious trial of the Jewish doctor Stern as an ordinary, banal criminal trial of a commonplace bribe-taker and swindler. But the broad international publicity which this case has attracted, which I have protested against and have not desired and which the presiding judge has mentioned several times in his remarks, the constantly crowded courtroom, and the throngs of people in the street indicate that this is no ordinary trial and that it has nothing to do with criminal activities. The Achilles' heel of the prosecution is its legal ignorance, and the prosecutor's point of departure has been shown to be legally baseless. By referring to the Criminal Code, the commentaries of the Supreme Court of the USSR, and specific analogous cases examined by the Supreme Court, my defense counsel has demonstrated that there is no legal basis for charging Dr. Stern with criminal liability.

My defense counsel's profound speech has left the prosecutor's splendid robe in pitiful tatters. For a moment I even felt sorry for the prosecutor, who suffered what I believe was a complete fiasco in court, although the representative of the State prosecution fully deserved it. As in the Andersen fairy tale, the emperor was revealed to be naked and the indictment was shown to have absolutely no legal foundation. If representatives of the medical community, even from the socialist countries, were present at my so-called criminal trial, I do not doubt that they would be outraged by this legal reprisal against a physician and would view this trial as an insult to the entire medical profession.

Comrade Judges, I did not challenge you at the very beginning of the trial because a challenge would have been completely pointless. I am profoundly convinced that any court in Vinnytsia, regardless of its composition, could be subjected to external pressure with the aim of unjustly condemning the Jewish doctor Stern.

Yet I have not given up all hope for justice from the court, and I have had reasons to believe that at times it displayed sufficient objectivity. Still, I am afraid that despite semi-official declarations about the

objectivity and impartiality of the trial examination, my trial may become an extension of the tragicomic investigation of my case, when Prosecutor Kravchenko, with the active assistance of Professor Zelinsky, an anti-Semite by principle, fabricated in five months of investigation a case charging the Jewish doctor Stern with bribe-taking and swindling. And then I think some people in the province displayed local initiative by entrusting Investigator Kravchenko with the task of giving a legal semblance to the persecution of the Jewish doctor Stern.

I vehemently protest against these absurd accusations of bribe-taking and swindling. This accusation is nothing but a crude camouflage for the attempt to discredit and do away with me. My trial is an open reprisal against me because of my family's desire to leave the Soviet Union, which does not violate Soviet law and corresponds to the principles and high ideals of the Declaration of Human Rights adopted by the United Nations Organization and signed by all its members, including the Soviet Union. My criminal case was fabricated on the model of the infamous Doctors' Plot in Moscow in 1952, when prominent physicians, Jews by nationality, were falsely accused of spying and poisoning.³¹

Just as Dr. Timoshchuk gave false evidence at the trial of the Moscow doctors, so there is at my trial a "colossus" for the prosecution—with feet of clay, however—the suborned witness Huzhva. There was also a false expert opinion by Professor Kuchuk at my trial, just as there was a false expert opinion at the 1952 trial. You know what an ignorant and illiterate squib Kuchuk and his partners put together.

From my teacher Nikolai Shereshevsky, who had the bad luck to be in the prisoners' dock at the Moscow trial, I learned about the dismal end of witness Timoshchuk—she died under the wheels of a car that just "happened" to be passing by. The government report about the complete rehabilitation of all the Moscow doctors in the spring of 1953 said that the medicolegal expert opinion . . .

JUDGE: We are not interested in what was said. We want to hear what you are pleading of the court.

STERN: Can the comparison that there was a false expert opinion in 1974 as well really . . .

JUDGE: Accused Stern, you are avoiding the issue.

STERN: Closing your eyes to the past means failing to see the present. I want . . .

JUDGE: No, this is too much!

STERN: Well, let it pass. I had counted on having several hours. I shall cut down my speech. Perhaps I will do this. Perhaps there's no sense. (A

long pause.) Comrade Judges, I am convinced that there are people who want to sacrifice Stern in order to set a precedent and demonstrate that any person can be done away with by similar means, applying a suitable label to him, as attempts are now being made to label me a bribe-taker and swindler and in this way give persecution the appearance of legality. I should like to be mistaken in my assumption that this trial has the malicious intent of serving as a warning to anyone who wants to make use of his legal right to emigrate.

You have to be brave and courageous to take this risk when you know that you can be locked away in prison on a trumped-up charge. I have the right to call myself brave and courageous. I count myself with those people who would rather die on their feet than live on their knees before the likes of Zelinsky and Kravchenko. Realizing that widespread publicity about my trial would be used against the Soviet Union, during the six months that I spent in prison, Comrade Judges, I wrote numerous letters to all the government departments, appealing for justice, humaneness, prudence, and foresight. I warned that widespread publicity about my case would be undesirable, that the investigation must be stopped and Dr. Stern—a necessary and useful member of Soviet society—must be rehabilitated. My appeals for prudence and justice remained the voice of one crying in the wilderness, and Investigator Kravchenko did not hesitate to declare calmly that I would be left to rot in prison and my family would be destroyed by any available means.

During seven months in prison, Comrade Judges, I got to know the depths of injustice, cruelty, sadism, bigotry and hypocrisy. Even after all this, I still agree with Anton Chekhov, a great son of Russia and a writer who is very dear to me, when he said, "If one had to choose between being a hangman and a victim, I would choose to be a victim and would never agree to be a hangman." I understand perfectly that every century has its own Middle Ages, and so I am not surprised when I encounter the most barbaric manifestations of human nature. I believe that my trial is one of these anachronisms. The existence in our time of such militant anti-Semites and bigots as Professor Zelinsky and Investigator Kravchenko smacks of the Middle Ages. There's no need to make the question of emigration into a scarecrow. . . .

JUDGE (*awkwardly*): Accused Stern, why do you believe that our government . . . does not permit . . . uh . . . emigration?

STERN: That's what I'm saying. Thousands of Soviet Jews have made use of their right . . .

JUDGE: Stick to the facts of the indictment!

STERN: . . . to reunite with their families . . .

JUDGE: But you know that your sons received permission.

STERN: That's why I'm in prison!

JUDGE: Uh . . . uh . . . continue.

STERN: Thousands of Soviet Jews have made use of their right to reunite with their families, their right to speak, read and write in Hebrew—the oldest language in the world, the language of the Old Testament, the Bible, a great monument of human culture.

JUDGE (*rudely*): Accused Stern, we are not interested in culture. You are in a Soviet court of law, not a museum. Tell us what you plead of the court. Plead, plead!

STERN (*wearily*): I don't know what to do now. Perhaps I really should say a few words about what I . . .

JUDGE: We want to hear your plea to the court. That's all we need to hear. What do you want from the court? What are you pleading for?

STERN: Well, all right, I listen to you. Although speaking frankly . . .

JUDGE: You have the right to speak, but only about . . . things that bear on the case.

STERN: You know, I shall tell you something. Speaking frankly, I doubt very much whether the court has the right to interrupt the final plea by the accused.

JUDGE: Yes, the court has the right if he touches on subjects that don't concern the case.

STERN: All the subjects touched on in my final plea have a direct bearing on the case.

JUDGE: Well, on subjects . . . uh . . . on subjects that concern the case, you may speak all you wish. Please go ahead.

STERN: Comrade Prosecutors—I mean, Judges—I want to draw your attention to a subject that is very important to me as a doctor. That is my modified treatment of patients with hormonal preparations. Not only disturbances in the sexual development of adolescents, but also sexual disturbances of endocrinal origin in adults. I deeply regret, Comrade Judges, that I didn't have time to publish my almost completed observations and data, which list every injection and even its date. In thirty years of practice, I learned to cure the patient, Comrade Judges, and not the disease. I learned how to select the optimal combination of hormonal preparations for each case. I learned how to select the proper frequency of injections for every case.

There's nothing surprising, Comrade Judges, in the fact that I personally injected patients with hormonal preparations, especially trial doses of combined hormones which consisted of several different preparations. Only I could determine the patient's sensitivity to the

preparations, Comrade Judges. Only through personal observation could I select the individual dose of combined hormones. Furthermore, hormonal preparations can frequently cause infiltrates of oil. Prevention of these infiltrates depended to a large extent on the fact that I myself, a doctor, injected the hormonal preparations. And here's the result, Comrade Judges: you haven't heard of a single case of complications or infiltrates of oil.

No doubt you remember how Stepan Baida's mother cried when she was testifying. No doubt you remember also the last words of Stepan Baida himself, who said that he would remember me, Dr. Stern, for the rest of his life, that I had made him well. Baida's mother said between sobs that her son had been a complete invalid and that Dr. Stern had treated him free of charge for a year and a half. He went to see the doctor almost every Sunday. Dr. Stern had cured her son's crippling condition. She couldn't find the words to express her gratitude to Dr. Stern for having saved her son. The mother of Stepan Baida, a tall, well-built, healthy young man who is happy to be in good health, said fearlessly, "Why have you imprisoned Dr. Stern? He saved our children. Set him free! Let him go on saving and curing people!"

I dare to assure you, Comrade Judges, that if Stepan Baida is now healthy and happy at the age of eighteen, this is only because I treated him for a year and a half according to my modification. I put my heart and all my knowledge into curing this crippled young man, and I achieved the impossible—I cured him of eunuchoidism, an almost incurable disease—a rare instance even in world endocrinological practice. For although many people have contributed to make medicine what it is, it remains a unique art practiced by the individual doctor. In thirty years, Comrade Judges, I have cured hundreds and thousands of Baidas. I did this in a completely disinterested way, and yet Kravchenko and Zelinsky want to make me into a bribe-taker and swindler.

Patient Hromovy turned to me at a most difficult time of life—old age. No wonder the great scientist and Nobel Prize winner Ilya Mechnikov said in his *Notes on Human Nature*, "Old age is an immense dissonance in human life."³² By the way, Mechnikov's life in Tsarist Russia is a clear example of genocide. He was a Jew and was persecuted by professors who were members of the Black Hundreds.³³ He was forced to leave his homeland, Russia, and to emigrate to France, on which he bestowed a new glory. . . .

JUDGE (*shouting*): Please address the court! You are repeating yourself!

STERN: I doubt very much whether many people know that Mechnikov was a Jew.

JUDGE: If you are saying this for the court, then rest assured that the court knows.

STERN: Well, I agree. I agree. I shall take this into account.

JUDGE: Even if we hadn't known, we would have learned this from your statements, which are lying here. We learned a great deal that we hadn't known before.

STERN: I shall take this into account . . .

JUDGE: Address the court, not the public.

STERN: I'm deleting everything. There's no need for you to accuse me. As it is, I'm holding back with all my strength.

JUDGE: I am simply saying that we have here what you're saying. Make your plea to the court!

STERN: I am making superhuman efforts to control myself. (*Long pause.*) Citizen Hromovy was in great sorrow. His wife had died, and living alone was hard. He decided to get married and so at the age of seventy sought help in restoring his sexual potency. I didn't accept Hromovy as a patient very readily, Comrade Judges. It's difficult to make a man of seventy young again. But Hromovy had heard from a man in his village that only Dr. Stern could accomplish this miracle. As Hromovy said himself, he grew younger by a good twenty-five years. I ought to emphasize that Hromovy received only supportive doses of hormones at home. The main part of Hromovy's treatment consisted of injecting combined hormones according to a special schedule. I shall demonstrate now that this is so. You heard from Hromovy himself that he's in good health and is very grateful to Dr. Stern. Comrade Judges, you should have seen the interest Investigator Kravchenko took at one of the interrogations in the treatment I had given Hromovy, which made him a man again at the age of seventy. Investigator Kravchenko must have had a personal interest in this—he's an old man, too. I said to him, "Look in the diagnostic chart and copy out the schedule of treatments." But Kravchenko, who isn't a stupid man, replied, "No, you tell me what combination of hormones you used in your injections." To this I replied, "I shall help you when I'm out of prison and you come to see me as a private patient."

CLERK OF THE COURT [*giggles*]

STERN: I regret that the court summoned a large number of witnesses for the prosecution and only a few witnesses for the defense. If the court had heard the testimony of the 112 witnesses for the defense I had asked for, Comrade Judges, you would have heard the truth about Dr. Stern, about his disinterest, about the way he treated patients. There was even

a curious incident in jail. The doctors asked me to consult with them about a severely ill patient.

JUDGE (*rudely*): This has no bearing on the case. Do you understand that?

STERN: All right, I'm cutting everything out. . . . But despite the fact that I shall throw out everything important . . . (*STERN feels faint. A long interruption.*) Comrade Judges, I still want to say that it is no coincidence that the persecution of my family began on May 10, 1974, when permission to emigrate came from Moscow . . . permission to issue my younger son August an exit visa and my refusal to forbid him to leave. I've already told you how "strangers" broke into our apartment. I'm leaving that out. I won't speak about the way my son was detained, a disgraceful act, although the court does not have to do with this directly.

Please note, Comrade Judges, I think you have already noted, that all the complaints about my "crimes" were filed simultaneously, as if at the wave of a magic wand, between May 14 and 17, 1974. By May 29, I was already under arrest.

Comrade Judges, for some reason you keep getting off the track and believe—excuse me, not you, the prosecutor believes—that Professor Zelinsky had nothing to do with my case. Because I believe that Professor Zelinsky did everything possible to destroy Dr. Stern, I consider it necessary to dwell on this point. By way of analogy, let me say the following. The cudgel has existed throughout history for those who were too smart. Giordano Bruno and Jan Hus died at the stake and .

JUDGE: We know quite well that Bruno died at the stake . . .

STERN: All right. . . .

JUDGE: . . . and perhaps know as much as you.

STERN: All right, I agree with that. But at the same time, I want to stress . . .

JUDGE: We don't need this.

STERN: . . . that Professor Zelinsky wanted to destroy Dr. Stern the way Trofim Lysenko, who terrorized our scientists for twenty-five years . . .

JUDGE: We know that story too.

STERN: . . . destroyed Vavilov.³⁴

JUDGE: And if we didn't know, we would have learned.

STERN: So Professor Zelinsky—I am thoroughly convinced that a scientific degree is no guarantee of knowledge—is an unscrupulous careerist.

JUDGE: Accused Stern, do not use such expressions!

STERN: But I didn't say "anti-Semite."

JUDGE: You have no right to call him a careerist, either.

STERN: No, he's a careerist of the highest order. I am restraining myself and not saying any more. He is a pitiless and malicious man. There isn't a bit of intelligence in Professor Zelinsky, no true education, no decency. I am thoroughly convinced that as a man and an endocrinologist, Professor Zelinsky is a midget. Everything would be all right if only Dr. Stern could accept the principle that midgets deserve deep bows. For years Professor Zelinsky and his assistants systematically worked at discrediting me. They used every possible means—attacks on my professional abilities, rumors, gossip and provocation. Toward the end, as you know, I began to receive anonymous letters of the foulest sort, which I shall not discuss here because of the presiding judge's request. I am convinced that the investigators decided to make use of the services of Professor Zelinsky and his group because only Zelinsky could have told them about incidents that had occurred seven years earlier—the incident with Harmasar, for example—or four years earlier—with Huzhva and others. I won't even mention that like the Roman Cato he went about saying, "And furthermore, Stern must be destroyed."

I won't mention the methods used to prepare the witnesses. I am thoroughly convinced that they were foul and criminal. Consider the confrontation with witness Overchuk on the second day after my arrest when she declared that her son had possibly been poisoned while he was being treated. This proves that her statement was suggested to her by someone. Overchuk immediately added, "You were paid to treat inductees improperly." I emphasize this point, although Overchuk, an honest Ukrainian peasant, later retracted her accusation. In court she said something completely different because she was ashamed of having repeated foul slander. Comrade Judges, you have had the opportunity to convince yourselves that I am not a coward. But I was frightened by this first confrontation after my arrest when a simple peasant woman accused me, a Soviet man who had grown up in Soviet times, "You were ordered to treat inductees improperly. Someone paid you. You are a spy." How could I calmly listen to these senseless accusations, so reminiscent of the Stalinist era?

JUDGE: She didn't say this in court. Please stick to the point.

STERN: Comrade Judges, could a simple peasant woman have come to the conclusion that Stern was a spy? No, she couldn't have. She was intimidated, worked over, and instructed to slander me. This could have been done only by people from Professor Zelinsky's circle because they're the only ones who stood to benefit. I'm cutting it short. *(Pause.)* I won't mention how Lisovy's mother, Anna Matvienko,

wrote in horror to the Prosecutor's Office, "Was my son treated properly?" Then there's the disgraceful incident during the interrogation of Soloviychuk and Tymoshenko, whom you refused to subpoena. They were forced to give false testimony when they were interrogated at the Illintsi District Prosecutor's Office. They were told that I was a murderer, a poisoner of children. What barbarity! In the twentieth century, in the civilized world, guardians of law and order stoop to such immoral provocations! I am inspired when I think that two simple peasant women, Soloviychuk and Tymoshenko, refused to become accomplices in crime. They refused to support the accusation put forth by that three-headed monster Overchuk-Huzhva-Harmasar, whose names are listed in the warrant for my arrest. Although I think this was all the crude work of that provincial Sherlock Holmes, Kravchenko, who dreams of becoming as famous as Inspector Maigret, it was no accident that the simple peasant woman Overchuk was made a star witness to accuse a Jewish doctor of poisoning and spying. They wanted to show me the opinion common people had of me. In the episode with Harmasar, they wanted to show me what terrible things I'm involved in—releasing people from service in the Soviet Army. And in the incident with Huzhva they wanted to show me how I'm making a fortune. And still, no matter how I restrain myself, I will have to say one more thing. Investigator Kravchenko wrote to the central savings bank office (volume 1, case sheet 52) that "the investigation supposes that Stern has large deposits." I can answer at once that no deposits by Stern were found, as you know, no valuables and no money. It would be useful to explain here to militant anti-Semites of all races and creeds that the myth of Jewish wealth developed because throughout their history Jews have always been ready to pay, especially with their blood . . .

JUDGE: Accused Stern, do not speak about this!

STERN: All right, I'm throwing everything out. There . . . I'm throwing it out . . . I must tell you, Comrade Judges, why the prosecution, including Investigator Kravchenko, presented such a large number of witnesses. The State prosecutor, strictly speaking, is not entirely responsible here because he had to follow suit and save the honor of the uniform. When they discovered that they couldn't find any more Huzhvas, any more Harmasars, or even any more Overchuks, they decided to try to win by sheer numbers. But you have seen, Comrade Judges, that in court practically all thirty-nine witnesses, with the exception of Huzhva, retracted their accusations, and many of them simply thanked Dr. Stern for treating them. I shall not stop to examine all the episodes, and

there's no need to do so because my defense counsel has done a brilliant job. Let me say just one thing, however. In our age, truth is established by making comparisons. If Dr. Stern was charged with incidents, even four incidents, involving five rubles each, then this very courtroom has seen trials where each incident involved no less than a thousand or fifteen hundred rubles.

JUDGE: Why do you have to bring this up?

STERN: But I haven't mentioned any names.

JUDGE (*in a friendly tone*): There's no need to bring this up.

STERN: Comrade Judges, everything becomes known through comparison, and in prison everything is known, even who eats candy during a trial. (*Prosecutor Kryvoruchko chokes and blushes.*) I must note that much of the evidence gathered against Dr. Stern was built on sand, on the investigator's own interpretations of the witnesses' words. Let me remind you of the incident with witness Pshyk, who was examined at the court hearing on the twenty-sixth. She said flatly that she hadn't said that she had brought Dr. Stern a chicken, although you might think it was a question of a whole cow. She declared that the investigator had written about the chicken on his own initiative and that she would go to the investigator and tell him not to do such things. By the way, witness Pshyk thanked me with tears in her eyes for curing her son. She thanked Dr. Stern for saving her husband's life.

The examination of witness Sushko is particularly significant in many respects. I won't go into the details. I expressed my indignation in the statement that I wrote for the court. And yet, Comrade Judges, what do we have here? The witness clearly tells the prosecutor ten times that Dr. Stern named the true price of the drugs—thirty kopecks. "I gave him ten rubles on my own," Sushko said. And although everything possible was done to exert psychological pressure on the witness to change his testimony, Sushko firmly maintained his position. I ask you then, how can one believe an indictment composed by Investigator Kravchenko which contains such simply improbable incidents as the one with Sushko when Stern clearly said "thirty kopecks"? No, Stern said that "the drug costs ten rubles." In other words, he's a swindler. I think that the prosecution's obstinacy in this instance took on a rather ugly cast because the prosecutor is not required to prove the guilt of the accused, but only to establish the truth. In view of your request I will not mention the confusion that resulted—who went to see Sushko, leaving this to the court's conscience.

The examinations of witness Sushko and many other people allow us to understand, Comrade Judges, why Investigator Kravchenko refused

to let me confront witnesses. The investigator was simply afraid of them. He knew very well that the patients would not slander their doctor at a confrontation. This is quite a sharp and illegal practice. Judge Orlovsky, who presided at the trial, twice stated that this is a violation of the law, that Investigator Kravchenko was required to let me confront my patients.

I shall also say a few words about the tricks Investigator Kravchenko played, stooping to all sorts of underhanded means to show what terrible people these Sterns are. I expect that you can guess about everything else. They are bribe-takers, swindlers and so forth. I think that Loyola and Machiavelli, the founders of the Jesuit order, can rest in peace. They have a worthy successor.

The investigator enjoyed complete impunity. He thinks it is possible to obtain ivory by turning a fly into an elephant. Comrade Judges, consider yourself: in volume 3, case sheet 85, Dr. Timofeeva gives the most splendid evidence about Dr. Stern. She believes that Dr. Stern is a good physician and human being. She says very clearly that patients spoke most highly of Dr. Stern. Apparently in answer to a question by Investigator Kravchenko, she told about the rumors spread by Stern's enemies in Professor Zelinskys's group: "People said that Stern accepted money, was involved in private practice, and was not squeamish about this." You might think that private practice is a terrible crime! What does Investigator Kravchenko, this circus artiste and manipulator, do with Timofeeva's words? Here is how he rewrites these words. On page 2 of the indictment he states: "As witness Timofeeva put it figuratively, people said that Stern accepted money and was not squeamish about anything." That's a direct forgery, Comrade Judges, a dereliction of duty! Instead of the phrase "was involved in private practice . . ."

JUDGE: Your defense counsel has spoken about this.

STERN: ". . . and is not squeamish about this . . ."

JUDGE: Accused Stern, do not repeat this, please.

STERN: . . . Kravchenko wrote "is not squeamish about anything." As you can see, Comrade Judges, it is not Stern but Investigator Kravchenko who is not squeamish about anything as long as he can slander the Jewish doctor Stern. Can he really get away with this? Investigator Kravchenko should rather work in a circus. He deliberately distorted a witness's evidence in the indictment, putting into quotes words she had not said and did not have in mind. I also believe that referring to hearsay is impermissible in principle.

A long and unnatural pause follows. Dr. Stern looks at his wife and tries to keep a smile on his face. It is apparent, however, that he is suffering from acute pains in the spinal column and is trying not to let anyone notice this.

JUDGE: Have you finished?

STERN: No, I am continuing. During one of the interrogations in jail, I began to cough up blood. I believe that this was disgraceful behavior by a Soviet investigator. My handkerchief was covered with blood. I showed this handkerchief and even wrote a petition asking that these incidents of hemoptysis be investigated. Naturally, I directed the investigator's attention to the fact that I was coughing up blood. But this sadist said flatly that it was none of his business and went on interrogating me as if nothing had happened.

JUDGE: Accused Stern, are you aware of what you are saying? A sadist?

STERN: He is a sadist, a real sadist. I am convinced of this. More than that, I believe that he discredits Soviet justice and the Soviet Prosecutor's Office.

JUDGE: We still want to hear what you are pleading of the court.

STERN: I will tell you what I am pleading. I am not pleading. I demand justice. Let me return to my patients. I categorically protest against these absurd accusations of bribe-taking and swindling. My conscience is absolutely clear, and I believe that I shall still be of service to sick people.

Comrade Judges, you can be a member of the international Soviet people, but this doesn't at all mean forgetting that you are a Jew or a Ukrainian. As I conclude, I want to say in this respect that on page 10 of the indictment, Kravchenko insults his native Ukrainian language by calling it a local jargon. I am a Jew, but I was born in the Ukraine. This is my native land, and its people are dear and close to me. Ukrainian is my second language, and I believe that this is a terrible insult to a splendid people and their language. Attempting to blacken me, Kravchenko writes: "In conversations with patients, Stern used the local dialect." Incredible, but true! It would be interesting to ask Investigator Kravchenko what language or dialect the Jewish doctor Stern should speak? Chinese? Japanese? The language of cannibals in the jungles of Central Africa? What dialect is it not a crime to speak? Comrades, I sent poetry to my family from prison. I . . . I went to sleep and woke up in prison for seven months with my beautiful wife's name on my lips. I have borne a pure love for her all my life. I said all this not in Russian, Comrade Judges, but in Ukrainian, a language that

is very dear to me. And although this is not the place for poetry, I should still like to say a few words. Every morning when I got up I said:

I know I'll never find another
As pure, as tender, innocent
Or blessed as you. There is none other
Who in my heart could be as sacred.

'Tis rare to glimpse her as she passes.
A love like hers can only be
A dream. If by some chance you meet her
She'll ever be your guiding star.³⁵

In the same beautiful language, so dear and close to me, I wrote to my children:

The mighty oak was sundered by the storm
When it refused to stoop down low,
But osier willows saved their supple form
For they knew how to bend and bow.

Be not this troubled day a vulgar
Osier willow
But battle with the storm and conquer
Or die upon your flag a hero.

Comrade Judges, I am finishing. I am still deeply convinced that this is no ordinary trial of a bribe-taker and swindler. Someone wanted to turn this trial into a bloodbath, but I still expect that you will examine the evidence presented by the defense and will come to the conclusion that the man standing before you has never committed a crime, that he can still be of service to sick people. I await your just verdict, which will decide my fate and the fate of my family. It will determine whether Dr. Stern's life will return to its regular course, or whether it will take a completely different direction. I still expect that the Themis of Soviet justice will keep her eyes closed, that she will not submit to external pressure, and that she will deliver the just verdict which I am awaiting.

JUDGE: The court retires [to pass sentence].

TUESDAY, DECEMBER 31, 1974

Day Fifteen of the Trial

Thirteen hours before the New Year, Communist Lane, the narrow street by the courthouse, is jammed with police cars all the way to Lenin Street to prevent people from gathering. Blue militia uniforms are visible everywhere. A holiday hubbub reigns on the main arteries of the city. The odor of vodka hangs in the air. Vinnytsia is preparing for the New Year. Stern is led in at eleven o'clock. Only his relatives manage to get into the courtroom because it is packed to overflowing with policemen and plainclothes agents.

JUDGE: Close the door! I shall announce the verdict!

VERDICT

IN THE NAME OF THE UKRAINIAN SOVIET SOCIALIST REPUBLIC
on the 31st day of December 1974. The Judicial Collegium for Criminal
Cases of the Vinnytsia Provincial Court, composed of

Presiding Judge:

V. Orlovsky

People's Assessors:

A. Lakhtionova

V. Podonenko

Clerk of the Court:

V. Puchkova

with the participation of counsel for the prosecution H. Kryvoruchko and
counsel for the defense D. Axelbant, has examined in an open court hearing
in the City of Vinnytsia the case of

Mikhail STERN,

born in 1918, resident of Vinnytsia, a Jew with higher education, married,
expelled from the CPSU in connection with the present case, employed as
the Director of the Outpatient Clinic of the Vinnytsia Provincial Endo-
crinological Health Center, previously not tried, accused of crimes contra-
vening Article 168, Paragraph 2, and Article 143, Paragraph 2, of the
Criminal Code of the Ukrainian SSR.

Having heard the testimony of the accused, the victims and the witnesses,
the conclusion by experts, the speeches by the State Prosecutor and the

counsel for the defense, and the final plea of the accused, the Judicial Collegium has decreed to FIND MIKHAIL STERN GUILTY . . .

IDA STERN: Assassins!

JUDGE: Who said that? Leave the courtroom immediately!

IDA STERN (*walks to the door, holding back her tears. With her hand on the door she turns to the hushed courtroom*): Assassins!

JUDGE (*hurriedly*): . . . to find Mikhail Stern guilty and to sentence him:

—under Article 168, Paragraph 2, of the Criminal Code of the Ukrainian SSR, to deprivation of liberty for a term of eight (8) years, with confiscation of all property, without exile;

—under Article 143, Paragraph 2, of the Criminal Code of the Ukrainian SSR, to deprivation of liberty for a term of four (4) years, with confiscation of all property;

—by virtue of Article 42 of the Criminal Code of the Ukrainian SSR, on the basis of the crimes committed by Mikhail Stern, to deprivation of liberty for a term of eight (8) years, which is to be served in a corrective-labor colony with an intensified regime, with confiscation of all property, without exile.³⁶

The term of punishment is to be computed as of May 30, 1974.

By virtue of Article 470 of the Civil Code of the Ukrainian SSR, the unlawfully procured sum of 745 rubles is to be recovered from the convicted Mikhail Stern for State revenue, and court costs of 207.71 rubles are to be recovered from him for State revenue.³⁷

The verdict may be appealed to the Supreme Court of the Ukrainian SSR.

Presiding Judge—signature

People's Assessors—signatures

Certified true copy: V. Orlovsky, Member of the Vinnytsia Provincial Court.

STERN: My conscience is clear. Shame . . .

JUDGE: Guards!

STERN: Shame on those who sow hatred!

JUDGE: The matter is closed. (*Shouting*) Guards, take him away!

MAN IN PLAINCLOTHES: Don't let anyone leave the courtroom!

The public is held back until Stern has been led out a side door and down the stairs. From the staircase comes his loud cry:

I WILL NOT SURRENDER!

A CASSATIONAL APPEAL

A CASSATIONAL APPEAL

FROM ATTORNEY D. AZELBANT
DEFENSE COUNSEL FOR M. STERN

Against the verdict of the Collegium for Criminal Cases of the
Vinnytsia Provincial Court dated December 31, 1974

and

the review decision of the Collegium for Criminal Cases of the
Supreme Court of the Ukrainian SSR dated March 25, 1975

I BELIEVE THAT THE VERDICT OF GUILTY IN THE CASE OF M. STERN IS A JUDICIAL
MISTAKE.

Dr. M. Stern, an endocrinologist, born in 1918, worked for many years at various medical institutions and was deservedly known as an experienced and skillful physician who continually helped cure people of serious diseases. For the last ten years Dr. Stern was employed as the Director of the Outpatient Clinic of the Vinnytsia Provincial Endocrinological Health Center.

On May 29, 1974 Dr. Stern was arrested, and on December 31, 1974 he was sentenced by the Vinnytsia Provincial Court under Article 168, Paragraph 2, of the Criminal Code of the Ukrainian SSR to eight years' deprivation of freedom with confiscation of all his property and under Article 143, Paragraph 2, of the Criminal Code of the Ukrainian SSR to four years' deprivation of freedom with confiscation of all his property.

The final punishment for M. Stern was determined to be eight years' deprivation of freedom, to be served in a corrective-labor colony with an intensified regime, and confiscation of all his property.

On March 25, 1975 the Judicial Collegium for Criminal Cases of the Supreme Court of the Ukrainian SSR rejected the cassational complaints of the convicted and his defense counsel and left intact the verdict of the Vinnytsia Provincial Court in the case of M. Stern.

I BELIEVE THAT THE SAID VERDICT AND REVIEW DECISION ARE INCORRECT AND SUBJECT TO REPEAL BECAUSE THEY CONTRADICT THE EVIDENCE IN THE CASE.

Before an analysis of the factual circumstances in the case can be undertaken, a question which is by no means theoretical must be answered. This is the cornerstone of the entire indictment. Without an answer to it a verdict can neither be delivered nor set aside.

I. IN WHAT CASES CAN A PHYSICIAN BE THE SUBJECT OF A MALFEASANCE?

I believe that this question has to be answered by referring to *Nauchno-prakticheskii kommentarii UK Ukrainskoi SSR* [Scientific and Practical Commentary on the Criminal Code of the Ukrainian SSR] (Kiev, 1969), p. 164, paragraph 10:

The said persons [i.e., physicians] are regarded as officials when they are carrying out organizational-directive or administrative-economic duties. When they are carrying out their professional duties (treatment of patients) they are not regarded as officials and in connection with this activity of theirs cannot be the subjects of a malfeasance.

Thus in the case of Dr. S., who was the head of the surgical department of a hospital and who received gifts and sums of money from patients she had operated on, the Plenum of the Supreme Court of the Ukrainian SSR ruled that these gifts had been accepted by her not in connection with her official duties, but for the rendering of professional services. Consequently, only disciplinary measures and public persuasion could be applied to her, and her actions did not contain a *corpus delicti*. (Resolution of the Plenum of the Supreme Court of the Ukrainian SSR of May 9, 1964, No. 05-284a-64.)

A similar point of view is expressed in the *Kommentarii k ugolovnomu kodeksu RSFSR* [Commentary on the Criminal Code of the RSFSR] (Moscow, 1971), p. 376, paragraph 10:

Only an official can be the subject of receiving a bribe. A physician who has committed for remuneration or other material advantages actions which entail legal consequences (illegally issuing a sick certificate, for example, or knowingly issuing a false report concerning disability or fitness for military service) is subject to liability for receiving a bribe.

Instructions about the necessity of clearly distinguishing between professional medical activity and activity concerned with the carrying out of official duties are also contained in the rulings of the Supreme Court of the RSFSR: "A physician who has committed for a bribe actions which entail legal consequences (illegally issuing a disability certificate, etc.) is subject to prosecution under Article 173 of the Criminal Code of the RSFSR" is the heading of the ruling of the Judicial Collegium of the RSFSR of July 11, 1966. (See *Biulleten' Verkhovnogo Suda RSFSR* [Bulletin of the Supreme Court of the RSFSR], 1966, no. 10, p. 5.)

Dr. R., head of the surgical department of a hospital, who accepted remuneration from patients for operations he had performed on them, was convicted under Article 173, Paragraph 2, of the Criminal Code of the RSFSR (corresponding to Article 168 of the Criminal Code of the Ukrainian SSR). Setting aside the verdict and dismissing the case on the grounds that a *corpus delicti* was not present, the Presidium of the Supreme Court of the RSFSR explained that since the head of the surgical department received illegal remuneration from his patients "not in connection with the carrying out of his duties as an official, but for the rendering of professional services," in accordance with the ruling of the Plenum of the Supreme Court of the USSR of July 31, 1962, "Judicial Procedure in Cases of Bribe-taking," the actions of the convicted cannot be considered to be bribe-taking. Only disciplinary measures and public persuasion could be applied to Dr. R. for these extortions. (See *Biulleten' Verkhovnogo Suda RSFSR* [Bulletin of the Supreme Court of the RSFSR], 1963, no. 8, pp. 6-7 and *Sotsialisticheskaia zakonnost'* [Socialist Legality], 1964, no. 9, p. 90.) A similar opinion is expressed in the legal literature: F. Iu. Berdichevsky, *Ugolovnaia otvetstvennost' meditsinskogo personala za narushenie professionalnykh obiazannostei* [The Criminal Responsibility of Medical Personnel for Violation of Professional Duties] (Moscow, 1970), pp. 84-85; P. Dagel', "Ob ugolovnoi otvetstvennosti vrachei" [The Criminal Responsibility of Physicians], *Sovetskaia Yustitsiia* [Soviet Justice], 1964, no. 19, p. 14; *Sovetskaya Iustitsiia*, 1966, no. 18, p. 15.

Consequently, a head physician who operates on a patient or an ordinary physician who prescribes a course of treatment for a patient is at that time carrying out his professional, and not his official duties. In this instance he is only a surgeon or an endocrinologist. At such a time neither the head physician nor the physician in charge of a department is discharging his administrative-economic or organizational-directive duties.

None of the charges preferred against Stern involve actions that entail legal consequences. Stern did not commit such actions, and he was in principle unable to do so. As the director of the Outpatient Department, he

did not have the right to issue sick certificates, and he was not a member of the recruiting commission of the Military Board or of the Medical-Labor Board.

Ignoring the above, the organs of preliminary investigation instituted criminal proceedings against Dr. M. Stern on a charge of malfeasance under Article 168 of the Criminal Code of the Ukrainian SSR. This attempt to impart an appearance of official duties to Stern's professional activities was repeated in the verdict of the court. In pronouncing Dr. M. Stern, director of the Outpatient Clinic of the Vinnytsia Provincial Endocrinological Health Center, guilty of receiving bribes for "actions not connected with his rendering of direct medical assistance" (page 1 of the typed text of the verdict), the court permitted a blatant distortion of the facts.

II. DR. M. STERN, DIRECTOR OF THE OUTPATIENT CLINIC, WAS CONVICTED WITHOUT FOUNDATION UNDER ARTICLE 168, PARAGRAPH 2, OF THE CRIMINAL CODE OF THE UKRAINIAN SSR

1. THE INCIDENT WITH M. HUZHVA

M. Stern was charged with receiving bribes of 150 rubles from S. Huzhva and with obtaining 250 rubles from him by swindling. The verdict of the court convicted Stern of receiving bribes of 145 rubles from Huzhva. The verdict was based on the testimony of S. Huzhva, his wife M. Huzhva and the witnesses Melnyk and Mykhalsky. I believe that the court did not have sufficient grounds to find the testimony of the Huzhvas reliable.

Maria Huzhva had a thyroid operation in the village of Pliskove, Pohrebyshche Region, Vinnytsia Province, long before she met Dr. Stern. During this operation the physicians removed her parathyroid glands by mistake. As a result of this operation, M. Huzhva became gravely ill. "I knew right away that I had a grave, life-long illness," M. Huzhva said in court (vol. 7, case sheet 33).

Naturally, both M. Huzhva and her husband S. Huzhva knew about the results of the unsuccessful operation. Dr. Stern had nothing to do with this unsuccessful operation. They came to see him when M. Huzhva was already in a critical condition. S. Huzhva nevertheless asserts that Stern produced his wife's very grave condition (vol. 1, case sheet 18). This fact alone is sufficient to indicate the tendency of Huzhva's testimony against Stern and to establish that Huzhva was deliberately slandering Stern.

Stern asserts that his relations with Huzhva became hostile because

Huzhva is an unscrupulous drunkard and thief and because he stole Stern's wristwatch from his office. This was confirmed in court by the testimony of witness Balmazia, the senior nurse at the Dispensary: "Yes, I remember an incident when a man ran out cursing from Stern's office and dashed to the street. I asked the patients what the matter was, and they told me that this man was a drunkard. Then Stern came out and said that the patient had stolen his watch and that he, Stern, had taken it out of his pocket" (vol. 7, case sheet 140).

An analysis of S. Huzhva's testimony clearly shows its mendacity. S. Huzhva asserts that he came to see Dr. Stern on September 14; that the doctor demanded money; that after he received fifty rubles from Huzhva on September 15 he hospitalized Huzhva's wife that same day; that Huzhva got his money from his mother-in-law Anna Melnyk, to whom he explained that the money was intended for the doctor who was to hospitalize her daughter M. Huzhva; that Huzhva also told the driver Mykhalsky, who took him to see Melnyk, that he urgently needed money for the doctor; that his wife was hospitalized on September 15, 1971 after he gave the money to the doctor; and that he went to get the money alone, while his wife spent the night at a boardinghouse in Vinnytsia and did not return home.

Huzhva's assertions are refuted by the evidence in the case file. M. Huzhva's chart indicates that she was in fact seen by Dr. Stern on September 14 and 15, 1971 (vol. 4, case sheets 39-41). Stern did not hospitalize her, however, and the Medical Control Commission issued a sick certificate for her for the period from September 15 to 24, 1971. The same chart indicates that M. Huzhva did not apply to the Health Center between September 15 and 24. Her husband is therefore lying. In fact she returned home after Stern was supposedly given fifty rubles.

On September 24, M. Huzhva received a hospitalization slip from Dr. Stern. The fact that he issued this slip in no way proves that Stern received money for this, because the state of M. Huzhva's health actually required that she be admitted to a hospital. Admission to a hospital is determined not by a doctor's orders, but by the patient's actual state of health. "The director of the Outpatient Clinic has nothing to do with hospitalization. Any physician can issue a slip for hospitalization. The patient goes with this slip to the director of the therapeutic or surgical clinic, who decides together with the head physician whether there are indications that the patient should be hospitalized. If such indications exist, the patient is admitted to the hospital. If there are no such indications, they recommend that outpatient treatment be continued," Stern testified in court (vol. 7, case sheet 148).

Questioned as a witness in this case, Dr. Bronstein stated: "Any doctor can refer a patient to a hospital for treatment, but only the head physician can

make the final decision'' (vol. 7, case sheet 142). Dr. Urbansky, the head physician at the Vinnytsia Provincial Health Center, testified as a witness: ''We have a single procedure for hospitalization. There are two types of hospitalization: urgent (emergency) and planned. Any doctor in the Outpatient Clinic can refer a patient. His referral should be based on clinical and laboratory data'' (vol. 7, case sheet 114).

The witness Melnyk and Mykhalsky refuted in court Huzhva's allegation that he had taken fifty rubles from Melnyk for the hospitalization of his wife. Both witnesses asserted that Huzhva went to get money from Melnyk *after* his wife had been admitted to the hospital in Vinnytsia. ''Huzhva's wife was in Vinnytsia. I heard at the time that she was in the hospital,'' Mykhalsky testified (vol. 7, case sheet 104). Melnyk testified that she had given her son-in-law a duck, onions and garlic for the doctor. It does not follow from Melnyk's testimony that the money she gave her son-in-law that day was also intended for the doctor. The testimony makes it clear that only the produce was intended for the doctor. When she gave the money and the produce, her daughter had already been admitted to the hospital in Vinnytsia (vol. 7, case sheet 98).

It is clear from the above that the witnesses S. Huzhva and M. Huzhva slandered Stern, that S. Huzhva did not give Stern fifty rubles to hospitalize his wife before she was admitted, and that he could not have given this money in M. Huzhva's presence because she was already in the hospital at the time that he received the money from Melnyk. Even if we assume that Melnyk did give S. Huzhva money for the doctor, it is clear from the above that he deceived Melnyk because it is obvious that he did not give Stern money for hospitalizing his wife.

The collusion between the Huzhvas to slander Dr. Stern is evident from Huzhva's statement to the investigator: ''When he met me, Stern would say that my wife needed to become pregnant. Then she would improve. She became pregnant in August 1973. She was getting worse and worse, and now her life is in danger'' (vol. 1, case sheet 26). Huzhva gave similar evidence in court. M. Huzhva said the same thing in court: ''Stern recommended that I get pregnant and that perhaps my health would improve then'' (vol. 7, case sheet 32).

Stern categorically denied the recommendations ascribed to him, drawing attention to their medical illiteracy: pregnancy cannot replace the function of the missing parathyroid glands. M. Huzhva's outpatient chart shows that she was seen by a gynecologist on March 18, 1974 and that the doctor wrote down what she had told him: ''Pregnant without consultation with endocrinologist, did not ask whether she can give birth'' (vol. 4, obverse of case sheet 52). This entry also clearly testifies to slander by the Huzhvas,

who were hostile to Stern. Dr. Stern did in fact refer patient Huzhva to the Kiev Institute of Endocrinology on February 17, 1972 for a consultation to decide whether a transplant of the parathyroid glands was possible, and on February 8, 1973 he gave her a report for the Medical-Labor Board which examined her in Koziatyn.

The Huzhvas slandered Stern when they alleged that they had given him thirty-five rubles in the first instance and sixty rubles in the second. An examination of volume 4, case sheet 45, shows that M. Huzhva was first referred by Stern to the Medical-Labor Board to determine the degree of her disability on February 3, 1972. If, as S. Huzhva alleges, Stern demanded money for such documents, why was Stern not paid for referring her to the Medical-Labor Board for a ruling about her disability and pension, but was allegedly paid a year later, when the disability and pension had already been determined and it was merely a question of renewing the certificate? Why does the court regard Stern's testimony as unsubstantiated and does not regard the Huzhvas' testimony as such? There is no answer to this question in the verdict, even though the court is required to state its reasons for considering some testimony acceptable and other testimony not acceptable.

THE VERDICT SHOWS A PREJUDICE AGAINST STERN.

The court wrote in its verdict: "On Stern's orders, patient Huzhva began to undergo the necessary tests at the Outpatient Clinic of the Health Center" (p. 2 of the typed text of the verdict). M. Huzhva is in fact gravely ill and is entitled to medical treatment at the Vinnytsia Endocrinological Health Center. But the case file does not contain any orders by Stern for the treatment of patient Huzhva!

Although the court convicted Stern under Article 168 of the Criminal Code of the Ukrainian SSR merely on the basis of unsubstantiated and contradictory testimony by Huzhva, which was refuted during the court proceedings, the court did not find his testimony sufficient to convict Stern under Article 143 of the Criminal Code of the Ukrainian SSR.

Huzhva asserted that while his wife was in the hospital he gave Dr. Stern 250 rubles and produce for the treatment that Stern was administering at the time. Huzhva's slander was easily exposed in court, and it was established that Dr. Stern had not treated M. Huzhva at the hospital of the Health Center and that Stern in fact had nothing to do with the hospital. This forced the court to note in the verdict that the hearing had not produced sufficient evidence to confirm the charge and that the Judicial Collegium was excluding this episode from the indictment. The above makes it clear

that under Article 168 of the Criminal Code of the Ukrainian SSR as well, Stern was convicted only on the basis of unsubstantiated, contradictory testimony by the Huzhvas and that such testimony was clearly insufficient for a verdict of guilty.

2. THE RYBACHUK-MANZHIEVSKY INCIDENT

The indictment against Stern states:

On April 20, 1972 L. Manzhievsky and S. Rybachuk turned to Stern with a request to hospitalize their mother K. Liubetsky, who was suffering from a severe form of diabetes and other diseases. On the pretext that there was no spare bed in the hospital, Stern refused for a long time to issue an order for hospitalization and sent her to be hospitalized only after he received twenty-five rubles from S. Rybachuk.

In court this charge was completely refuted! K. Liubetsky's outpatient chart shows that she was registered for admission on Stern's orders on April 20, 1972 and that she was examined that same day by an oculist, a surgeon and an endocrinologist, Dr. Hamarnyk, who determined that Liubetsky was terminally ill (she died soon after) and on April 20, 1972 issued an order to hospitalize Liubetsky (vol. 4, case sheet 71). The physicians at the hospital confirmed Dr. Hamarnyk's diagnosis and hospitalized Liubetsky that same day.

Examination of the above-mentioned documents makes it clear that Stern had nothing to do with the hospitalization of Liubetsky, that he did not refuse for a long time to issue an order for her hospitalization, and that he cannot be held responsible for the charge preferred because this charge completely fell apart in court.

The case file contains Rybachuk's testimony, confirmed by Manzhievsky, that in Stern's office Rybachuk placed twenty-five rubles under a piece of paper lying on the desk. They do not know whether Stern saw this money being put under the paper, but they can state with certainty that Stern did not take the money from under the paper in their presence.

Anxious to convict Stern at all cost of "accepting a bribe from Rybachuk," the court resorted to changing the charge against Stern and thus seriously violated Articles 275 and 277 of the Code of Criminal Procedure of the Ukrainian SSR.³⁸ The charge against Stern of receiving a bribe for hospitalizing Liubetsky was refuted in court. In these circumstances the court decided to convict Stern of accepting a bribe not for hospitalizing Liubetsky, as the indictment stated, but for registering Liubetsky for an examination by a doctor. The case file contains a document signed by L.

Manzhievsky and S. Rybachuk in which they assert: "We did not offer any bribes to anyone when our mother was received for treatment by Dr. Stern" (vol. 6, case sheet 63). The court considers this document, signed by Rybachuk, Manzhievsky, and their husbands, to be false, but accepts their testimony in court as true.

I believe that even this assessment of the witnesses' testimony does not give grounds for convicting Stern of accepting a bribe. Let us suppose that Rybachuk did in fact put twenty-five rubles under the papers on Stern's desk. Neither Rybachuk nor Manzhievsky can categorically assert that Stern saw this money and took it from under the paper, and they do not do so.

Stern asserts that he did in fact receive Manzhievsky, Rybachuk and Liubetsky. The latter was in a very serious condition, and he, as an experienced endocrinologist, observed this visually. As a physician, he could not refuse medical assistance to a woman who was gravely ill.

Stern also asserts that he did not see any money and did not take any from under the paper. If this money was put there, he does not know who took it from there or when. The prosecution has not refuted this testimony by Stern! It is possible to assume that Stern could have taken the money put under the paper on his desk, but according to Article 43 of the Foundations of Criminal Procedure of the USSR and the Union Republics, a verdict of guilty *cannot be based on assumptions*.

If, in addition, we take into consideration the ruling of the Supreme Court of the USSR that "any doubts regarding the accusation, if there is no possibility of removing them, are interpreted in favor of the accused" (Paragraph 2 of the Resolution of the Plenum of the Supreme Court of the USSR of June 3, 1969, "On the Court Verdict"), then we can come to only one correct conclusion: Stern cannot be convicted of accepting a bribe from Rybachuk.

3. THE INCIDENT WITH ARMY RESERVE OFFICER A. HARMASAR

A Harmasar, an officer in the Reserve, was referred by the Municipal Military Board to the Vinnytsia Endocrinological Health Center on June 18, 1968. Harmasar was not referred to the Endocrinological Health Center by chance. "I told the doctors at the Military Board that my thyroid gland was supposedly enlarged, and they therefore referred me to the Endocrinological Health Center," Harmasar said in court (vol. 7, case sheet 116).

The case history prepared by Dr. Tverdokhlib shows that Harmasar was ill for over ten years. While he was studying at the Institute in Odessa, he was found to have an overactive thyroid, for which he was taking insulin and some sort of pills. In 1967 and 1968, Harmasar was taking diiodotyrosine on

a prescription from the doctor at the medical station of Plant No. 45 (see vol. 5, case sheet 93). In court, Harmasar testified that he was also taking mercazolil at that time. The drugs named by Harmasar are evidence that he was suffering from thyrotoxicosis.

Dr. Stern examined Harmasar and on the basis of clinical data came to the conclusion that Harmasar was suffering from medium-gravity thyrotoxicosis. The indictment and later the verdict that is being appealed against assert that Stern gave Harmasar this diagnosis without justification and that he did all this deliberately with the aim of later obtaining a bribe from Harmasar's parents for getting their son released from Army refresher courses.

However, the case file never contained a single piece of evidence that anyone had ever talked to Dr. Stern about "assisting" Officer Harmasar in being released from refresher courses. Harmasar himself categorically asserted that he had never talked to the doctor about this and that the diagnosis issued to him corresponded to his actual state.

His mother, Antonina Harmasar, asserted that she saw Stern for the first time at the end of August or the beginning of September 1968, that is, two and a half months after her son had been examined by Stern; that at the time she met him she knew from her neighbor Maliovana (deceased in 1973) that her son had been examined by Dr. Stern and diagnosed as ill; that Dr. Stern was a very good endocrinologist and could give her son medical treatment; and that it was precisely for this—the future treatment of her son—that she gave Stern 200 rubles. The testimony given by Antonina Harmasar during the preliminary investigation gave no grounds for instituting criminal proceedings against Stern on charges of bribe-taking because the investigator had no evidence that when Stern was examining Harmasar he had the intention of getting him released from Army call-up in return for money. Without this there can be no *corpus delicti* of a bribe because this crime can be committed only intentionally.

Defining bribes, Article 168 of the Criminal Code of the Ukrainian SSR states that "the performance or non-performance in the interests of the bribe-giver" of any action occurs precisely because of the bribe. It is not necessary that the "performance or the non-performance in the interests of the bribe-giver" be agreed upon for the official to be connected with the acceptance of a bribe or with the promise of one.

The literature on Soviet criminal law correctly notes: "The danger of a bribe consists of the fact that the official carries out his duties for a bribe, an unlawful remuneration." (See Kovalev and Shelkovnikov, "Vziatochnichestvo—tiagchaishee prestuplenie" [Bribery—A Most Serious Crime], *Sovetskaia Iustitsiia*, 1961, no. 24, p. 10; S. Baklanov, "Suchestvennyi

priznak vziatki—ee obuslovlennost' '' [The Essential Sign of a Bribe is its Conditionality], *Sotsialisticheskaia zakonnost'*, 1971, no. 6, p. 66; and others.)

“It is not important whether a bribe is received before or after the commission of the action for which it is given. It is essential, however, that the commission of this action be conditional upon the bribe. In the absence of such a condition, the acceptance of the reward (or gift) for a previously performed official action should be regarded not as bribe-taking, but as a disciplinary offense. (See *Ugolovnyi Kodeks RSFSR: Nauchnyi kommentarii* [Criminal Code of the RSFSR: A Scientific Commentary], Part 2, p. 317, and *Kommentarii k Ugolovnomu Kodeksu RSFSR* [Commentaries on the Criminal Code of the RSFSR] (Moscow, 1971), p. 375.)

The defense is convinced that the investigator understood the above and that he therefore decided to conduct a medicolegal expert examination which would help prove that at the time when Harmasar was issued a certificate for the Military Board, Stern already had the intention of obtaining a bribe and therefore deliberately issued a false diagnosis to Reserve Officer Harmasar. Such a medicolegal expert examination was conducted by the investigation. It is characteristic that the panel of experts included two forensic physicians and one therapist. *The commission did not include an endocrinologist.* The said medicolegal commission of experts came to the following conclusions:

1. Harmasar is not suffering at present from a disturbance in the functioning of the thyroid. In other words, the expert examination six years later found Harmasar to be in good health.

2. Thyrotoxicosis is a chronic disease and usually leads to severe complications, including death, if it is not treated.

3. The diagnosis issued by Stern to Harmasar on June 18, 1968 was not confirmed by objective clinical data.

4. The above points, Harmasar's assertion that he was not treated for thyrotoxicosis, and the absence of symptoms of disturbed functioning of the thyroid at present permit us to assert that the diagnosis issued to Harmasar in June 1968 did not correspond to the state of his health. In other words, Harmasar was not suffering from thyrotoxicosis in 1968 either.

At the start of the court proceedings the defendant Stern and his defense counsel stated a challenge to Professor Kuchuk. The court granted this challenge, recognizing Professor Kuchuk to be incompetent in endocrinology (see vol. 6, case sheet 62), and appointed a new panel of experts to carry out a medicolegal examination. Of the former experts only Dr. Olnev was left.

The new medicolegal examination conducted by the court gave an entirely different conclusion:

1. Thyrotoxicosis is a chronic disease, but medical literature and clinical data give grounds for asserting that occasionally cases of spontaneous recovery from medium severity thyrotoxicosis do occur.

2. The clinical picture described by Dr. Stern is not sufficiently convincing to establish the presence of medium severity thyrotoxicosis in Harmasar in June 1968, but it does give grounds for ruling that Harmasar had thyrotoxicosis of the first degree. Stern explained that thyrotoxicosis of the first degree is also a reason for release from Army call-up.

Referring to the report of the said medicolegal panel of experts, the court makes a direct distortion of the conclusion of the report in its verdict: "When medium severity thyrotoxicosis was found to be present, the physician should have prescribed special anti-thyroid therapy for the patient, in this case Harmasar, but Stern did not do so." Nevertheless, in answer to the fourth question the experts write that such therapy was prescribed in this case, as can be seen from Harmasar's outpatient chart (see vol. 6, case sheet 112).

On Stern's orders to continue treatment of Harmasar, two days after he was issued a certificate for the Military Board, that is, on June 20, 1968, witness Yegorova conducted a basal metabolism test on Harmasar and noted in the log that Harmasar's basal metabolism was + 4 percent. Stern thought the result of the test was wrong because it was in sharp contradiction to the clinical symptoms. He calculated Harmasar's basal metabolism according to the Read method and got a result of + 44 percent. On this basis Stern changed Yegorova's entry in the log to + 44 percent. Yegorova protested against the change in the log, however, and restored her result of + 4 percent. After that Stern did not correct the entry of + 4 percent in Harmasar's outpatient chart. All this took place two days after the certificate for the Military Board had been issued and was important only for the future treatment of Harmasar.

The medicolegal experts' report indicates that diagnosticians do not ascribe great importance to basal metabolism test, because they are outdated and unreliable. "Data obtained from a basal metabolism test are taken into account in those cases when the results coincide with clinical symptoms. If the results of the basal metabolism test are not confirmed by clinical symptoms, we do not regard the test as being of paramount importance in the diagnosis," explained Professor Yefimov, a Doctor of Medical Sciences and an endocrinologist, in answer to a question by the defense (vol. 7, case sheet 67).

A document contained in volume 6, case sheet 109, is highly signifi-

cant in this respect. It indicates that a basal metabolism test was performed on Harmasar at the Provincial Hospital with a result of + 67 percent. It is characteristic that the medicolegal examination conducted during the preliminary investigation completely ignored this basal metabolism test, concluding that Harmasar is not suffering from thyrotoxicosis at present, and that it concealed the fact that Harmasar had been given a basal metabolism test with a result of + 67 percent.

The defense also considers it necessary to draw attention to the fact that Harmasar was examined at the Endocrinological Clinic on June 18, 1968 not only by Dr. Stern, but also by Dr. Kamenetsky, a neuropathologist and endocrinologist, who entered a diagnosis similar to Stern's on the basis of the neurological data in Harmasar's chart (vol. 4, case sheet 69). Testifying as a witness, Dr. Kamenetsky said in court: "Harmasar had an enlarged thyroid gland. All the symptomatology was on hand. My task was the following: I had to supply a neurological confirmation of the diagnosis made by Stern" (vol. 7, case sheet 55).

Dr. Kamenetsky also said in court: "I have no doubts whatsoever that the diagnosis was correct. My diagnosis coincided with Dr. Stern's. I share responsibility with Dr. Stern for the correctness of the diagnosis issued to patient Harmasar on June 18, 1968." (See p. 18 of the defense's notes on the record of the proceedings.)

On a motion by the defense the court entered into the record a document issued on December 11, 1974 by the Institute of Endocrinology and Hormone Chemistry at the Academy of Medical Sciences of the USSR. (See vol. 6, case sheet 144.) In answer to a letter from Legal Advice Bureau No. 14 of the Moscow City Board of Lawyers, the Institute replied that thyrotoxicosis can end in spontaneous recovery and that this is known in clinical practice. The diagnosis of medium-severity thyrotoxicosis made by two physicians, a therapist-endocrinologist and a neurologist-endocrinologist (judging by the entries made by Dr. Stern and Dr. Kamenetsky in the outpatient chart) was sound.

All of the above indicates that the medical data obtained in court completely refute the conclusions of the first expert examination, which was conducted during the preliminary investigation. There are sufficient grounds to institute criminal proceedings against Dr. Olnev, who signed two different reports of medicolegal examinations and knowingly gave false conclusions.

Consequently, in the incident in question, only the evidence of [Antonina] Harmasar can serve as material for an indictment. This testimony is as follows: "I gave Stern two hundred rubles to treat my son. There was no talk with Stern about my son's army service." (Vol. 7, case sheet 51.) "I

gave the money for the future treatment of my sick son and not for releasing him from refresher courses. I wouldn't have given two hundred rubles for that. I did not give Stern any bribes at all," Harmasar repeated several times in court.

Stern denies having received money from Antonina Harmasar. In the court's opinion these assertions by Stern are unsubstantiated because they are refuted by Harmasar's testimony. But Harmasar's testimony is even more unsubstantiated because it is refuted by the testimony of her son Alexander Harmasar. Regardless of how Stern's and Antonina Harmasar's testimony is evaluated, the defense asserts that the case file contains no factual or legal grounds for convicting Dr. Stern under Article 168 of the Criminal Code of the Ukrainian SSR in the incident described above. Moreover, a private decision sent by the court to the Provincial Military Board indicates that according to existing regulations the certificate issued to Harmasar by the Health Center could not be used to release him from refresher courses. The certificate was valid only for sending Harmasar to a hospital examination. Only if the hospital confirmed the diagnosis of thyrotoxicosis could Harmasar be released from refresher courses.

4. THE INCIDENT WITH V. DZISIAK

"On February 18, 1971 Vira Dzisiak went to see Stern on the advice of her friend A. Kruhlytsky without a referral from the regional hospital. Stern examined her, diagnosed her condition, and sent her to the Outpatient Clinic for examination. (Vol. 4, case sheets 136-137.) Dzisiak gave him ten rubles for this," states the verdict on p. 9. It is evident from this that if Stern received ten rubles from Dzisiak, he was her attending physician and received the money for his professional services, which is a gift, but not a bribe.

Dzisiak gave Stern money for his medical assistance: "I went to see Stern two or three times. The second or third time I went, I put ten rubles in Stern's coat pocket," Dzisiak testified in court. (Vol. 7, case sheet 104.) "I did not give the doctor money the first time. When I decided to give him money, I put it in his coat pocket. The doctor did not ask me for money," Dzisiak also testified in court. (See p. 29 of the defense's notes on the court proceedings.)

I consider it necessary, however, to draw attention to the distortion by the court of the material in this incident as well. Dzisiak's outpatient chart shows that she was seen by a gynecologist before she went to Stern (vol. 4, reverse of case sheet 135) and that she came to Stern with an outpatient chart. In these circumstances she did not need a referral from the regional hospital

to be admitted to the Endocrinological Health Center. In my opinion, Stern should not bear criminal responsibility in this incident.

5. THE INCIDENTS WITH LAVRENIUK AND HROMOVY

The court asserts that patient Lavreniuk "was seen by the accused Stern at his office in the Health Center four times without a referral from a regional hospital." For each visit, Lavreniuk gave Stern a bribe of twenty-five rubles, in all a hundred rubles. Wishing to ascribe to a physician's professional services the appearance of official duties, the court claims that Stern received bribes from Lavreniuk because he saw him without a referral from a regional hospital. This time too, for the sake of convicting Dr. Stern, the court resorted to a crude violation of Articles 275 and 277 of the Code of Criminal Procedure of the Ukrainian SSR, which stipulate that an indictment may not be changed in court to the detriment of the accused.

It is characteristic that the court's assertions in this incident are contradicted by the testimony given by Stern and also by Lavreniuk himself, who said in court that he had a referral to the Vinnytsia Endocrinological Health Center that the referral had been given to him by Dr. Pik at the hospital in Bershad, and that Stern treated him well. Lavreniuk testified in court: "I went to see Stern four times in all. Each time I gave him twenty-five rubles because he treated me and received me promptly." (Vol. 7, reverse of case sheet 95.)

Stern was also convicted of seeing D. Hromovy at his office in October 1973 without a referral from a regional hospital and of obtaining from him a bribe of twenty-five rubles. The indictment states on page 28 that Hromovy paid Stern twenty-five rubles for a medical examination. Here too, the court resorted to changing the charge against Stern, in violation of Articles 275 and 277 of the Criminal Code of the Ukrainian SSR, and unlawfully attempted to give Dr. Stern's professional activities the appearance of official actions.

The defense wishes once more to draw attention to the fact that even if Stern had been accused of seeing Hromovy without a referral and rendering the necessary medical assistance to him, in this case also Dr. Stern would have only been carrying out his professional duties because every citizen is entitled to receive medical assistance when he is ill, and no one has the right to refuse him such assistance, regardless of whether he has a referral to a medical institution. I consider that in these instances as well, Stern cannot be convicted under Article 168 of the Criminal Code of the Ukrainian SSR.

6. THE INCIDENTS WITH M. SHEVCHUK AND M. TEREHAILO

M. Shevchuk brought her son to see Dr. Stern in 1973. Stern examined her son, made a diagnosis, determined the course of treatment, and gave an injection of combined hormonal preparations, for which Shevchuk paid Stern ten rubles. Stern asserts that he received the ten rubles for his professional services and as compensation for the hormonal preparations he used in the injection for I. Shevchuk. The court considers that Stern received the money for seeing Shevchuk without a referral and that it was not a fee for his professional services. It turns out that the court believes that Dr. Stern gave Shevchuk the injection of expensive hormonal preparations free of charge.

M. Terehailo took his daughter to Dr. Stern for a consultation in November 1971. The court has pronounced Stern guilty of receiving from Terehailo a bribe of twenty-five rubles for issuing his daughter a referral to the provincial hospital for a tonsillectomy. In this case also, the court resorted to changing the charge against Stern and thus caused, in violation of Articles 275 and 277 of the Code of Criminal Procedure of the Ukrainian SSR, a deterioration in the position of the accused. The indictment states that Terehailo and his daughter were seen by Stern. The doctor examined N. Terehailo and advised that her tonsils be removed. "After her tonsils were removed at the Tulchyn Regional Hospital, Terehailo and his daughter went to see Stern again" (p. 28 of the indictment).

Consequently, according to the indictment, Terehailo did not give Stern any money for having issued a referral for the tonsillectomy. It transpires from the indictment that Terehailo turned to Stern for medical assistance after the tonsillectomy and that Terehailo learned from other patients in the waiting room that the physician had to be paid for receiving patients. It was precisely for this reason that he did so. The indictment considers that the payment Stern received for rendering medical assistance to N. Terehailo was a bribe. The court understands that even if Stern did receive this money, then it was a fee for his professional services as a physician and it was an extortion, but not a bribe. Wishing to convict Stern at all cost in this episode as well, the court exceeded the charges preferred against Stern and convicted him of having issued a referral for a tonsillectomy. Stern denies receiving money from Terehailo. The above makes it clear that Stern has been groundlessly found guilty of accepting a bribe from Terehailo.

7. THE INCIDENTS WITH KALYNA, ZELENIUK, TARANOV AND SOROCHUK

All these patients were referred to Stern by regional hospitals or local military boards. All of them were suffering from physical underdevelop-

ment, which is treated with expensive drugs. In those instances when adolescents came to see Stern without their parents, he would examine them and then suggest that they come back the next day with their parents who should have money with them for the drugs. When they came back with their parents, Stern would examine the patients and prescribe treatment.

Witness A. Kalyna testified in court: "Stern didn't say anything to me about money. I gave him fifteen rubles myself" (vol. 7, case sheet 79). Liubov Zeleniuk and her son Victor did not confirm in court the testimony they had given at the preliminary investigation, in which they said that Dr. Stern had supposedly said to them, "Well, pay me!"

At the preliminary investigation, witness [Maria] Taranov testified that she had heard from patients in the waiting room that Stern had to be paid for receiving patients. This is why she gave him twenty-five rubles the second time she saw him. "There in the office I gave Stern twenty-five rubles. He took the money and thanked me," said Taranov (vol. 2, case sheet 110). At the court hearing, Taranov changed her testimony and began to assert that she had paid the doctor for the drugs which he had prescribed on her first visit and which she had been unable to obtain anywhere. The court decided that the testimony given by Taranov during the preliminary investigation was more reliable. But even this testimony does not give grounds for convicting Dr. Stern of accepting a bribe because if any money was given, it was for his professional services.

P. Sorochuk and his son went to see Stern in February 1971. The doctor examined the younger Sorochuk, established a diagnosis and prescribed treatment. P. Sorochuk asserts that Stern suggested that he pay him thirty rubles, that he gave Stern seventeen rubles because he had no more money with him, and that his son, who later saw the doctor twice more, brought the remaining thirty rubles. Stern asserts that Sorochuk is slandering him and that he does not remember this incident, but he admits that he may have been paid for the injections. Stern supposes that if Yefym Sorochuk came to see him twice more, then he must have received injections of combined hormones, and that the doctor was paid for the injected drugs.

Yefym Sorochuk was not questioned during the investigation. Stern's explanations have not been refuted by the prosecution. It is evident from the above that even if Stern did receive money from these patients, then this money was paid only for his professional services, which is not subject to criminal prosecution.

III. DR. M. STERN HAS BEEN CONVICTED OF SWINDLING WITHOUT FOUNDATION

Stern was convicted under Article 143, Paragraph 2, of the Criminal Code of the Ukrainian SSR. The court considers that deception or abuse of the confidence of patients who went to Stern was present in Stern's following actions:

a. Instead of the prescriptions that a doctor should issue after he has examined patients and determined treatment, Stern personally supplied the patients with drugs, which he frequently claimed were foreign, scarce and expensive although in fact they were common Soviet drugs, and received for them considerably more money than their face value.

b. In violation of an existing regulation, Dr. Stern himself gave patients injections of hormonal preparations at his office and sometimes at home, but failed to register precisely what he had administered to a particular patient either in the outpatient chart or in the Health Center's log of injections.

c. To gain favor with patients and their relatives, he constantly stressed to them that he was treating patients by his own special Stern method, although, as the court established by examining Stern himself and other physicians from the Vinnytsia Endocrine Health Center, there is no such method of treatment.

In the indictment the charge against Stern under Article 143 of the Criminal Code of the Ukrainian SSR was worded in the following fashion:

. . . With the aim of obtaining money from citizens, abusing their confidence, by means of deceit, on the pretext of rendering them assistance in obtaining "scarce foreign" drugs, which supposedly cured the patients quickly, Stern systematically received money from patients and their relatives, in fact, issuing patients ordinary drugs which were worth considerably less than the sums Stern received for them . . . (p. 29 of the indictment).

A comparison of the charge against Stern under Article 143 of the Criminal Code of the Ukrainian SSR in the indictment with the charge as stated in the verdict shows that in convicting Stern the court resorted to a considerable expansion of the original charge, ascribing to Stern actions of swindling which were not listed in the indictment. *Stern was convicted of actions that he had not been charged with*, which is expressly forbidden by Articles 275 and 277 of the Code of Criminal Procedure of the Ukrainian SSR. This argument alone is fully sufficient to deem this part of the verdict illegal. The defense considers it necessary, however, to demonstrate both the illegality and the groundlessness of the verdict.

1. HOW DID DR. STERN TREAT ADOLESCENTS WITH RETARDED GROWTH?

I wish to answer this question by quoting Dr. Stern himself:

Any physician who has considerable practical experience modifies the generally recognized methods of treatment by introducing certain corrections which are suggested to the physician by his personal clinical experience. I used well-known hormonal preparations for the treatment of retarded growth, but I determined the combination, the dosage and the sequence of applications individually in every case. (Vol. 7, case sheet 47.)

In my personal modification, I used a combination of hormones. In my modification, which gave splendid results, I used all the known hormonal preparations. I used Dutch and Yugoslav sustanon, Hungarian choreogonin, West German prefizon, 10 percent testenat, and 5 percent, 2.5 percent, and 1 percent testosterone propionate. The trick lay in the combination of these preparations. (Vol. 7, case sheet 138.)

The entries in the charts do not correspond to what really happened. The charts did not record the injections I gave the patients. I did not want the staff at the Medical Institute to know about my modified treatment before it was published. (Vol. 7, case sheet 147.)

No physician is forbidden to give injections or to help acquire drugs. Perhaps I was foolish to take drugs and give them to other patients in their interest. (Vol. 7, case sheet 147.)

There are no directives forbidding a physician to carry out any manipulations if this is done in the interests of the patient. In order to avoid interrupting treatment or missing the term of treatment, the physician has the right to offer the patient treatment with preparations in his possession. (Vol. 7, case sheet 137.)

My modified treatment had to be applied by the physician himself. A nurse can be entrusted with making elementary injections. Intravenous injections are in the physician's competence. I had to determine the given patient's sensitivity to one or another hormonal preparation myself. (Vol. 7, case sheet 155.)

I proved my method with concrete examples, including Overchuk, I treat the patient and not the disease. This is my principle. (Vol. 7, case sheet 47.)

The results achieved by Stern in treating physical underdevelopment in adolescents stood out sharply in comparison with the achievements of other doctors. Dr. Bronstein, an endocrinologist, said in court: "On the whole, Dr. Stern had striking success in treatment" (Vol. 7, case sheet 142). Volume 4 contains outpatient charts. They record the striking results ob-

tained by Dr. Stern in the treatment of hypogenitalism and retarded growth. Case sheet 4 of volume 4 shows that before Overchuk applied to Stern, this adolescent had been treated for four months by another doctor but did not grow a single centimeter or gain one gram during this period. During a similar four-month period of treatment by Dr. Stern, who personally gave him injections of combined hormones, Overchuk gained fifteen centimeters in height and seven kilograms in weight. Equally striking results by Stern can be seen in the cases of Baida, Prybiha, Koval and others. Dr. Stern proved that using the same drugs as other doctors, one can attain greater success in the treatment of patients through the art of medicine.

The court sees a swindle in Dr. Stern's actions because in the opinion of the court Stern deceived patients and their relatives by constantly stressing that he was treating patients by some special method that only he knew. The defense categorically objects to this allegation by the court because it has no basis in reality. Despite his brilliant results, Dr. Stern never advertised his success in treatment, and in making such allegations the court cannot—and in fact does not—cite a single witness who confirmed this.

2. ARE THERE ELEMENTS OF DECEPTION OR ABUSE OF CONFIDENCE IN DR. STERN'S ACTIONS?

A. THE OVERCHUK INCIDENT

The verdict states that Dr. Stern received 65 rubles from patient Overchuk's parents because he promised to cure him with foreign preparations, although in fact Stern deceived the Overchuk family because he gave them drugs which cost 26.85 rubles and administered four injections of sustanon which cost 5.80 rubles, pocketing the difference of 32.35 rubles which he had swindled.

The accused Stern asserted that he had in fact given Overchuk four injections of combined hormones and that he had not recorded the combination of hormones in the patient's charts because he did not want to reveal his modification. He also asserted that each injection had an official value of seven to nine rubles, but that he obtained these drugs at the market price and not at the official price. Finally, Stern said that he had not deceived the Overchuk family in the most important respect—he did in fact cure their son, gave him injections of expensive foreign preparations, and expended his knowledge and efforts on him.

Witness Anna Overchuk related in court: "I put twenty-five rubles on Stern's desk so that he would get the drugs. Stern did not say how much money was necessary. My son would come, and Stern would give him

injections.” (Vol. 7, case sheet 8.) “Stern did not ask me for anything. I asked him to treat my son. I gave Stern another ten rubles because I thought the twenty-five rubles was used up. The boy grew and gained weight. I don’t know what the drug was. I have no claims against Dr. Stern.” (Vol. 7, case sheet 9.)

Both the verdict and a decision rendered by the court concerning the Vinnytsia Provincial Health Department established that Dr. Stern “gave patients injections of hormonal preparations which were not recorded either in the patients’ charts or in the Outpatient Department log of injections and did not leave any record of precisely what injections he had administered to his patients.” Consequently, there is no reason to analyze and use as reliable evidence outpatient charts which contain either incorrect data or no data at all about the injected hormonal preparations. But this is precisely what the court does in the episode with Overchuk.

B. THE MATVIENKO INCIDENT

The verdict alleges that between March 2 and May 4, 1973, Stern deceived Anna Matvienko by selling her a box of sustanon 250 worth 4.35 rubles for 25 rubles, choreogonin worth 5.72 rubles for 20 rubles, and wrote out a prescription for sustanon for which Anna Matvienko gave him 10 rubles. In all Stern received 55 rubles from Matvienko, but issued her drugs worth 10.07 rubles in the court’s opinion, appropriating for himself 44.93 rubles.

Stern does not deny that he gave Matvienko drugs and explains that on two occasions he obtained for her not sustanon, but choreogonin, a scarce drug which is seldom obtainable in pharmacies, that he acquired this drug for his patients at the market price and not the official price, and that in doing so he was acting in the interests of patients whose course of treatment could not be interrupted.

The investigation did not establish where and at what price Dr. Stern obtained the hormonal preparations. On page 9 of the indictment, the investigation expresses a supposition about the way Dr. Stern obtained scarce hormonal preparations: “Apparently he obtained them at pharmacies himself.” *The investigation did not establish where Stern obtained drugs unavailable in the pharmacies and did not determine the prices Stern paid for these drugs.*

Without these important data, on which calculations have to be based, it is impossible to speak about the presence of deception in Stern’s actions. He asserts that these scarce hormonal preparations were brought to him by patients themselves. In their attempt to locate these drugs, patients some-

times turned to relatives or friends in Odessa, Kiev, Moscow and other cities and received the drugs in larger quantities than they needed for their own treatment, and there was no point in keeping them because drugs have a fixed expiration date. People often obtained these drugs not at the official price, but at the market price, and they sold them to Stern for the same price. This testimony by Stern was confirmed by witness Volynkina, who was interrogated during the preliminary investigation and who said that she had two boxes of choregonin left. Since the expiration date was approaching, she asked Stern to sell the choregonin at fifteen rubles a box, which he did. (Vol. 5, case sheet 62.)

If the investigation did not refute Stern's explanations, which were confirmed by witness Volynkina, and if it did not prove that Stern bought the drugs at the official prices, then the court has no grounds for accepting the official prices of the drugs supplied by Stern as evidence for convicting him of swindling.

During the preliminary investigation witness Matvienko said that she had obtained on two occasions from Dr. Stern choregonin, and not sustanon as the verdict under appeal states. She also said that she herself decided how much money to give the doctor for the drugs. (Vol. 1, obverse of case sheet 91 and case sheet 105.) "The doctor did not say anything to me about money. I gave him the money myself. He did not accept any money for the treatment. Stern did not tell me what amounts of money I should give him," Matvienko testified in court. (Vol. 7, case sheet 14.) "Stern did not tell me the price. I knew what choregonin costs, and I deliberately gave him more money. Stern did not deceive me. My son was cured in six months. I am extremely grateful to the doctor for the treatment. I have no claims against the doctor," Matvienko also said in court. (P. 6 of the defense's notes on the record of the court proceedings.)

C. THE SUSHKO INCIDENT

Petro Sushko went to see Dr. Stern with his father, Mykhailo Sushko, on December 10, 1971. The doctor examined Petro Sushko, established that his development was retarded, and prescribed medication. Then Stern took two vials of thyroidin from his pocket and said that these pills should be taken three times a day. Mykhailo Sushko gave Stern ten rubles. The court asserts that Stern received 10 rubles for thyroidin, which costs 30 kopecks, that is, Stern cheated Sushko of 9.70 rubles. Both Stern and Sushko object to this. Stern said that he did not sell the thyroidin to Sushko, that the price was so insignificant that he did not take it into account.

Sushko gave Stern ten rubles for receiving and examining his son, that

is, for his professional services and for the injections that he gave Petro Sushko. "Stern gave me two vials of thyroidin. One vial costs fifteen kopecks. I gave Stern ten rubles. Stern said that the drug cost thirty kopecks. Yes, I personally wrote a statement to the effect that I have no claims against Stern. I gave him ten rubles for the visit, and not for the drug. I was seen on the same day. My son really went alone to get injections. My son did not pay him." (Vol. 7, case sheets 14-16.)

There are no grounds for asserting that Dr. Stern deceived Sushko in any way. The court does not take into account in this episode the cost of the hormonal preparations used by Stern in his injections. The case file for the Sushko episode contains a contradiction that is very significant from the defense's point of view. The record for June 16, 1974 (vol. 2, case sheet 28) states: "The price on the label was the same as the list price—fifteen kopecks." But the indictment states: "When the vial of thyroidin offered to citizen Sushko was examined, the price indicated on the vial was found to have been erased." Since both documents were signed by Investigator Kravchenko, it is completely obvious that only he could have erased the price with a *mala fide* intention.

D. THE BEZNOSIUK INCIDENT

Stern saw the adolescent Vasyl Beznosiuk, who came with his mother, Vira Beznosiuk, on two occasions in December 1972. The court asserts that Stern deceived Beznosiuk. He gave them three ampules of sustanon-250 and made two injections of sustanon. Beznosiuk gave Stern 20 rubles, but the drugs cost 7.15 rubles, that is, Stern cheated Beznosiuk of 12.75 rubles. Why does the court assert that Stern gave Vasyl Beznosiuk injections of sustanon? There is no answer to this question in the verdict.

Stern says that he gave Beznosiuk an injection of combined hormones, in which Dutch sustanon was one of the components. Vira Beznosiuk herself alleged in court:

I went to see Stern in December 1972. I gave him ten rubles on two occasions. I put the money in his pocket. Stern showed me a small vial with a Dutch drug and said that my son would be given these injections. Nobody said that I had to pay. I decided to pay myself. I did not buy the injections at a pharmacy. I gave the money to express my gratitude. (Vol. 7, case sheet 29.)

I have no claims against the doctor. I am grateful to him. (P. 10 of the defense's notes on the record of the court proceedings.)

There are no grounds for convicting Stern under Article 143 of the Criminal Code of the Ukrainian SSR either!

E. THE BEZKURSKY INCIDENT

According to the verdict, Stern also deceived N. Bezkursky and obtained from him 32 rubles, but gave him one box of prefizon worth 2.30 rubles and ten pills of thyroidin worth 20 kopecks. "All this was confirmed by the victim Bezkursky in court," the verdict states. *The court's allegations do not correspond to reality!* In court Bezkursky only confirmed that he bought drugs from Stern, but "I don't remember what drugs they were. If I find the vials and the wrapper, I'll bring them in." Both during the investigation (vol. 2, case sheet 79) and in court Bezkursky did not say exactly what he had bought from Stern. In court Bezkursky testified:

Stern brought ten ampules out of his house. He said that my son should get an injection every twenty-four hours. Two weeks went by. I went to see Stern. He said that he would give me more drug. I gave him seven rubles. Stern gave me a vial which contained ten pills. I don't remember the name of the drugs. The second time I received drugs, the ampules were smaller. (Vol. 7, case sheets 16-17.)

Bezkursky received one type of ampule the first time and another, smaller type the second time. Consequently, he received *different drugs*. The outpatient chart shows that Bezkursky was prescribed not only prefizon and thyroidin, but also gonadotrophin (vol. 4, case sheet 353). The court examined the log at the Medical Assistance Station, which contains an entry that from October 14, 1971 Bezkursky was given six injections of prefizon. There are no entries in the log before October 14, 1971. Bezkursky received the first injections from Stern on September 23, 1971, and these ten ampules, which were injected every day, were used up by October 14. Consequently, it is impossible to determine what drug Bezkursky received from Stern. From the above, it is apparent that there is no reliable information in the case file about the kinds and quantities of drugs that Bezkursky received from Stern. There is also no information concerning where Stern obtained these drugs and what price he paid for them. Therefore, there are no grounds for convicting Stern of swindling in this episode.

F. THE POLISHCHUK INCIDENT

The verdict under appeal alleges that in March 1973 Stern received from Dmytro Polishchuk twenty-five rubles for a box of insulin worth two rubles, that is, twenty-three rubles more than it cost. Polishchuk explained that he went to a pharmacy after he was seen by the doctor and there obtained part of the drugs that had been prescribed for him. No injections were

available in the pharmacies. Meeting Stern by chance on the street, Polishchuk told him that he had gone to all the pharmacies and not been able to buy the injections. Stern then took a packet of injections from his briefcase and gave them to him, and Polishchuk gave Stern twenty rubles. "I cannot say what drugs I received at the pharmacy," Polishchuk stated in court (vol. 7, case sheet 30). "I did not ask the doctor how much money I should give him. I gave it to him on my own." (P. 11 of the defense's notes on the record of the court proceedings.)

Witness Ivan Struk, Polishchuk's son, says that Stern gave Polishchuk a box of insulin. Stern alleges that he could not have given Polishchuk insulin and taken twenty rubles for it because insulin is not a scarce drug and is always available in the pharmacies, and Polishchuk could not have failed to buy insulin if he had gone to the pharmacies. If this incident did take place, then Polishchuk was given a scarce hormonal preparation which could be obtained at that time only at its market price and not at its official price. Injections of insulin alone will not cure hypogenitalism, but Stern did cure Ivan Struk. If it is not known for certain what preparation Stern gave Polishchuk and what price Stern himself paid for it, then there are no grounds for charging Stern with swindling in this instance.

G. THE PLIASUN INCIDENT

The verdict states:

While examining Serhiy Pliasun, who was suffering from medium severity hypogenitalism, on January 24, 1969, Stern told Pliasun's mother that her son had to be treated with a Hungarian preparation and gave her four ampules of choreogonin, for which he received 40 rubles, although they were worth only 2.28 rubles, thus appropriating 37.72 rubles. This has been confirmed by Pliasun's testimony.

The real situation was quite different from what the verdict states. Stern did not give Halyna Pliasun any choreogonin on January 24, 1969, but merely wrote out a prescription for it. Pliasun told the investigator that she had searched for choreogonin in Odessa, Kiev, and Moscow, but could not find the drug anywhere. Only a substitute was available. Stern told her that he would try to get it. She does not know how he obtained it. The Pliasuns came to see him at the end of 1969 or early in 1970, that is, almost a year after they had begun looking for the drug. Stern said that it was possible to obtain the drug for forty rubles, and it was obtained at that price (vol. 5, case sheet 143).

Pliasun testified in court:

I looked for choreogonin in Odessa, Kiev, and Moscow but could not obtain it anywhere. After talking with the wife of a serviceman Stern said that he had good news for us. She had choreogonin which she would sell for forty rubles. I realized that this drug could not be obtained through the usual channels and so paid the forty rubles. Dr. Stern did not deceive me in any way, and I have no claims against him. (P. 4 of the defense's notes on the record of the court proceedings.)

Stern alleges that he helped Pliasun to buy Hungarian choreogonin at the market price and did not deceive her in any way. This testimony by Stern has not been refuted by the prosecution, and it has been confirmed by Pliasun, who does not consider herself a plaintiff in this case.

H. THE POLISHCHUK INCIDENT

The court alleges that on December 12, 1971 Stern obtained in a deceitful manner from Serhiy Polishchuk's mother, M. Polishchuk, 31 rubles, a rooster, and twenty eggs because Stern gave her for 45 rubles four packets of apilac, one box of gonadotrophin, one box of sustanon and two vials of insulin with a total worth of 13.78 rubles. This was supposedly confirmed by plaintiff M. Polishchuk and witness S. Polishchuk. This allegation by the court, just as its other allegations, does not correspond to reality! M. Polishchuk never enumerated the drugs she received on December 12, 1971. She said in court:

I went to the pharmacy with the doctor, and he bought forty-five rubles' worth of drugs. I gave him the money in the pharmacy or outside it. I gave him another five rubles because forty rubles was not enough. We received all these drugs. (P. 9 of the defense's notes on the record of the court proceedings.)

I gave Stern the money either in the pharmacy or near it, I don't remember exactly now. There wasn't enough money for the drugs that had been prescribed. The drugs were in boxes and packets. After this my son and I went to see him twice more. My son was given an injection on Dr. Stern's orders. My son was given injections at the Dispensary three times. Nobody mentioned money to us. (Vol. 7, case sheet 20.)

S. Polishchuk was not examined in court. At the preliminary investigation (vol. 2, case sheets 87-90) he testified that Stern had given them two vials of insulin, four packets of apilac, one box of sustanon, two vials of thyroidin and two other drugs whose names he did not remember. Consequently, the court did not obtain the list of drugs supposedly given by Stern to M. Polishchuk from the testimony of M. Polishchuk and S. Polishchuk, as the verdict states. If we turn to Polishchuk's outpatient chart, we see that on

December 12, 1971, Dr. Stern prescribed for Polishchuk a whole complex of drugs, which a committee of pharmaceutical experts evaluated as being worth almost forty rubles (vol. 5, case sheet 15). Stern testified that in addition to these drugs he gave Polishchuk injections of hormone preparations for which he did not accept money.

The verdict under appeal makes the absolutely groundless allegation, in the face of clear facts, that this testimony by Stern was refuted by the testimony of M. Polishchuk and S. Polishchuk. "My son was given injections at the Clinic three times," said the mother. The same thing is stated in the testimony of her son, which was read into the record during the court proceedings. It is evident from the above that Stern's conviction in the given episode is contrary to the evidence in the case.

I. THE NECHYPORUK INCIDENT

In 1972, Anna Nechyporuk visited Stern with her son Anatoliy and asked him to treat her son. Anna Nechyporuk said in court that Stern was supposed to obtain drugs for her and that she gave him thirty rubles. But she did not go back to Stern for the drugs because another doctor advised her not to have her son treated by Stern. Therefore, she did not see Stern anymore and did not ask for the money or the drugs. Stern explains Nechyporuk's action by the fact that she went to see Professor Zelinsky, Stern's worst enemy, and that this determined her further relations with Stern.

The court studied Anatoliy Nechyporuk's outpatient chart while he was being examined. The chart contains no evidence that Anna Nechyporuk saw Stern. It is characteristic that the entry in the chart was in Professor Zelinsky's handwriting. "My chart was filled out by Professor Zelinsky himself," Anatoliy Nechyporuk said in court. The case file contains no evidence that Stern intended to deceive Nechyporuk. She did not come back for the drugs or the money. Where then does the court see swindling on Stern's part in this episode?

J. THE KOROL INCIDENT

S. Korol brought his sick son Mykola to see Dr. Stern on February 13, 1973. On Stern's instructions, Korol bought drugs for 25 rubles at a pharmacy and brought them to Stern. Korol paid for the drugs at the pharmacy. The court alleges that of the drugs brought to him by Korol Stern returned one packet of sustanon worth 4.35 rubles, insulin worth 2 rubles, gonadotrophin worth 59 kopecks, and thyroidin worth 15 kopecks, that is, 6.94 rubles, and

that the remaining drugs, worth 18.06 rubles, bought with Korol's money, supposedly remained in Stern's possession.

Where did the court get the list of drugs which in the court's opinion were received by Korol from Stern? The testimony given by S. Korol and his son during the preliminary investigation and in court does not contain such data. The record of the court proceedings contains a sentence allegedly said in court by S. Korol: "Later I found out that he had given me drugs for only 6.94 rubles." The defense categorically asserts that Korol did not say this in court. The testimony given by S. Korol to the investigator (vol. 2, case sheet 14) does not contain any names of drugs received by him from Stern, and there is no mention of what these drugs cost.

Witnesses Hryhoruk and Muzyka, employed at the Medical Assistance Station, testified that they gave Mykola Korol injections of insulin and gonadotrophin. Korol's outpatient chart and the pharmaceutical experts' report show that Dr. Stern did not prescribe gonadotrophin for Korol on February 23, 1973. Consequently, the court's allegation that Stern gave Korol gonadotrophin on February 23, 1973 is contradicted by the documents.

Stern denied this episode and pointed out that on February 23, 1973 he prescribed for Korol drugs that cost eighteen rubles, which was confirmed by the pharmaceutical experts' report (vol. 5, case sheet 14). Stern explained that Korol suffered from a severe form of hypogenitalism but is in good health at present and that the disease cannot be cured by insulin and gonadotrophin alone. Stern also explained that he prescribed a large quantity of apilac to be taken by Korol three times a day over a long period and that Korol had to be given injections of choreogonin and sustanon.

S. Korol said in court: "My son was getting injections at the medical station and taking pills at home. My son is in good health. He's studying to be a machine operator." (Vol. 7, case sheet 18.) "My son took pills three times a day." (Vol. 7, case sheet 109.) Citing the experts' report, Stern alleged that just the apilac that Korol received cost 21.70 rubles (vol. 5, case sheet 14).

The court wrote in its verdict that this allegation by Stern "is groundless and is refuted not only by the testimony of M. Korol and S. Korol, but also by the same experts' report that Stern cites." How does the experts' report refute Stern's allegation? The verdict contains no answer to this question.

The court cannot properly refute Stern's arguments, as the law requires, and so it rejects them declaratively, without showing cause. I consider that this episode too does not contain sufficient evidence to convict Stern of swindling.

K. THE MALYSHEVSKY INCIDENT

The court alleges that when Anatoliy Malyshevsky and his father visited Stern in December 1971, "Stern took from the young fellow's father 24 rubles for two boxes of insulin, one vial of thyroidin, and one box of apilac, which cost 6.16 rubles, thus appropriating 17.84 rubles. The verdict states that "this is confirmed by the testimony of victim P. Malyshevsky and witness A. Malyshevsky." This allegation by the court also does not correspond to reality! Neither of the Malyshevskys ever named the drugs they had received from the doctor.

During the preliminary investigation victim P. Malyshevsky said: "He gave us drugs—ten vials of injections and two packets of pills in green and pink wrapping." (Vol. 2, case sheet 129.) In court he said: "Stern wrote out a prescription and gave us two vials, one with pink pills and the other with green ones. He gave us ampules for injections. I gave him nineteen rubles. Five rubles were for his kind reception." (Vol. 7, case sheets 22-23.) Consequently, Malyshevsky paid for the drugs only nineteen rubles, and not twenty-four rubles as the court claims.

Stern denies this episode and directs the court's attention to the fact that even if Malyshevsky did buy nineteen rubles' worth of drugs from Stern, he was still not deceived. Malyshevsky's outpatient chart (vol. 4, case sheet 546) shows that he was prescribed drugs which were evaluated by the pharmaceutical experts as being worth 19.85 rubles (vol. 5, case sheet 13). The court considers, however, that the conclusions of this committee of experts are refuted by the testimony of the Malyshevskys. It is no accident that the court does not cite specific testimony by the Malyshevskys which, in the court's opinion, refutes the experts' report. There is no such testimony in the case file! Stern's conviction under Article 143 of the Criminal Code of the Ukrainian SSR is not based on evidence and is therefore illegal.

Having concluded its analysis of the specific episodes for which Stern was convicted under Article 143, Paragraph 2, of the Criminal Code of the Ukrainian SSR, the defense can now answer the question posed in the heading of this section of the appeal. *In Dr. Stern's actions, there is no abuse of confidence or deception of persons whom he helped to acquire drugs.*

It has not been established that Dr. Stern obtained these drugs in pharmacies at their official prices. This argument alone is sufficient to assert that Stern was convicted without grounds under Article 143, Paragraph 2, of the Criminal Code of the Ukrainian SSR. The defense considers that by helping people to dispose of drugs for which they had no need at the given time or by engaging in private practice without a proper permit, Dr. Stern

committed offenses for which he can bear administrative responsibility, but his actions are not punishable by criminal law.

IV. CIVIL SUITS IN A CRIMINAL CASE

The court exacted 333.36 rubles from Stern in favor of the victims. The court committed a serious violation of the law in this respect as well. None of the victims asked that any money be exacted from Stern. All of them stated in court that they were grateful to the doctor and had no claims against him. Many of the victims said the same thing during the preliminary investigation (vol. 5, case sheets 176-187).

Moreover, Article 29 of the Code of Criminal Procedure of the Ukrainian SSR gives a court the right to issue a decision about restitution of material losses on its own initiative only in those instances when the property damage has been inflicted upon a person who cannot protect his own interests because of his helplessness, dependence on the accused, or for other reasons. In this instance the court acted against the interests and will of the "victims."

V. THE RECORD OF THE COURT PROCEEDINGS

Article 87 of the Code of Criminal Procedure of the Ukrainian SSR establishes: "The record of the court proceedings is made by the clerk of the court." *The file of the criminal case against M. Stern does not contain the record of the court proceedings made in court by clerk of the court V. Puchkova.* The file contains a typewritten text of a record prepared outside the court. This text does not correspond to what was said during the proceedings in many respects.

Volume 7, case sheet 271 contains a certificate written by the secretary of the Criminal Office of the Vinnytsia Provincial Court which reports that the convicted Stern refused to study the typewritten text which was given to him so that he could acquaint himself with the record of the court proceedings. He stated that he wanted to study only the record of the proceedings which was handwritten in court by clerk of the court V. Puchkova.

The defense considers Stern's demand justified because during the proceedings clerk of the court Puchkova wrote the record by hand and not on a typewriter. It is the duty of the chairman who presides at the proceedings and signs the record to examine it for its reliability and to confirm it with his own signature. (See *Ugolovno-protsessualnyi kodeks Ukrainskoi SSR: Nauchno-prakticheskii kommentarii* [The Code of Criminal Procedure of the Ukrainian SSR: A Scientific and Practical Commentary] (Kiev, 1974),

p. 120. See also *Ugolovno-protsessualnyi kodeks RSFSR: Nauchno-prakticheskii kommentarii* [The Code of Criminal Procedure of the RSFSR: A Scientific and Practical Commentary] (Moscow, 1970), p. 330.)

The court has no right to substitute a record prepared outside the court proceedings for the record that was made during the court proceedings. The file of the criminal case against Stern does not contain the record of the proceedings that was made in court, and Article 370, Paragraph 8, of the Code of Criminal Procedure of the Ukrainian SSR establishes that a verdict can be quashed if the case file does not contain a record of the proceedings.

On the basis of the above and in accordance with Articles 364, 369, and 370 of the Code of Criminal Procedure of the Ukrainian SSR, I request that the verdict of the Judicial Collegium for Criminal Cases of the Vinnytsia Provincial Court of December 31, 1974, by which M. Stern was found guilty and convicted under Article 168, Paragraph 2, and Article 143, Paragraph 2, of the Criminal Code of the Ukrainian SSR, be quashed and the criminal case against Stern be dismissed.

DEFENSE COUNSEL D. AXELBANT

NOTES

¹Code of Criminal Procedure of the Ukrainian SSR (hereafter CCP), Art. 84, 85. The possibility of an official sound recording is envisaged in Art. 85/1.

²I have seen a substantial part of what purports to be the Russian-language transcript of the tapes; I have not heard the recording. My comments presuppose, but neither challenge nor endorse, the authenticity of the (unofficial) record.

³CCP, Art. 17 and 325.

⁴Investigation is not always carried out only by procuratorial investigators. Some phases are sometimes conducted by police organs (technically called in that event "inquiry," *doznanie*, rather than investigation), and in some cases the work is done by special KGB-empowered investigators.

⁵CCP, Art. 22: "... The court, the procurator, the investigator, and the person conducting an inquiry do not have the right to shift the burden of proof onto the accused ..."

⁶CCP, Art. 106, 148, state only that the investigators (police or procuratorial) and the procurator in certain circumstances are authorized (*vprave*) to keep in custody, not that they are obliged to do so. This distinction is observed explicitly in the Commentary to the Ukrainian CCP, edited by the First Deputy Procurator of the Ukrainian SSR (Kiev, 1974), p. 186: "The application of security measures [such as detention] is the right, but not the duty, of the organs mentioned above."

⁷CCP, Art. 303.

⁸CCP, Art. 293, 303.

^{8a}Similarly, complainants or alleged victims of an offense are addressed as "Victim". Note also the tone of Kravchenko's statement to Mrs. Stern (p. 000). Compare the reply given by a mounted policeman in Tsarist days in St. Petersburg to a visitor from out of town who asked him who it was whose funeral cortège was blocking traffic between the railroad station and the visitor's hotel: "None of your business; whoever needs burial gets buried."

^{8b}CCP, Art. 299. "Fixing the order in which evidence shall be examined: After it is ascertained whether the defendant admits his guilt and wishes to make a statement to the court, the presiding member of the court shall ascertain the opinion of the participants in the court hearing about the sequence in which defendants, victims, witnesses, [and] experts should be questioned and the examination of other evidence carried out. The order of examination of the case shall be fixed by a ruling of the court, which shall be entered in the record."

^{8c}CCP, Art. 172-73 (carried out by the investigator in the preliminary investigation); 304 (in court at trial).

⁹*Cf.* James Herriot, *All Creatures Great and Small* (1972), p. 54.

¹⁰See p. — *infra*. *Cf.* V. N. Chalidze, *Ugolovnaia Rossiia* (1977), p. 338.

¹Captain Alfred Dreyfus, who had risen to a position on the French general staff, was arrested in October 1894 on a charge of selling French military plans to the German government. The reactionary press lost no time in pointing to this as proof of the dangerous influence of the Jews. Dreyfus was found guilty by a court-martial in January 1895, publicly degraded as cries of "Death to the Jews" rang through the streets of Paris, and sent to Devil's Island. After the trial Emile Zola published the pamphlet *J'accuse*, in which he charged the army with falsifying evidence. The agitation for a re-trial grew so strong that eventually Dreyfus was freed and later declared innocent and restored to his rank.

Mendel Beilis, a Jewish workman in Kiev, was accused of murdering a Christian boy to use his blood in a ritual. Although a judicial inquiry produced no evidence of Beilis's guilt and it was apparent that the boy had been killed by a gang of thieves to which his mother belonged, high officials, many of them members of the Union of the Russian People (see note 22 on p. 265), engineered the case against Beilis to divert popular dissatisfaction and to strengthen the autocracy. Beilis was held in prison for over two years until international protests forced the authorities to give him a trial. The trial, which took place in October 1913, was heavily rigged in favor of the prosecution. The jury consisted of uneducated Ukrainian peasants who had been exposed to anti-Jewish incitement before the trial. The judge, a known anti-Semite, hampered the defense, tried to influence the jury, and assisted the witnesses for the prosecution. Despite all this, the jury found Beilis not guilty, and the government grudgingly dropped its case. See Maurice Samuel, *Blood Accusation: The Strange History of the Beilis Case* (New York: Knopf, 1966). [Translator]

²"Nationality" in Soviet parlance refers not to State citizenship, but to membership of an officially recognized "national" group—Russian, Jewish, Armenian, Ukrainian, etc.—and all Soviet citizens are so identified in their papers. [Translator]

³Here and further laws cited during the trial are quoted from *Kryminal'nyi kodeks Ukrain'skoi RSR* [Criminal Code of the Ukrainian SSR] (Kiev: Vydavnytstvo politychnoi literatury Ukrainy, 1968) and *Ugolovno-protsessual'nyi kodeks Ukrain'skoi SSR: Nauchno-prakticheskii kommentarii* [Code of Criminal Procedure of the Ukrainian SSR: A Scientific-Practical Commentary] (Kiev: Izdatel'stvo politicheskoi literatury Ukrainy, 1974). The translations are adapted from the texts of the corresponding articles in the codes of the Russian Republic, as translated in *Soviet Criminal Law and Procedure: The RSFSR Codes*, second edition, introduction and analysis by Harold J. Berman, translation by Harold J. Berman and James W. Spindler (Cambridge, Mass.: Harvard University Press, 1972).

Article 54 of the Code of Criminal Procedure deals with "circumstances barring a judge from participating in consideration of a criminal case": "A judge or people's assessor may not participate in the consideration of a case: (1) if he is a victim, civil plaintiff, civil defendant, or a relative of any of them, or also a relative of the investigator, of the person conducting the inquiry, of the accuser, or of the accused; (2) if he has participated in the given case as a witness, expert, interpreter, person conducting the inquiry, investigator, accuser, defense counsel, representative of the interests of a victim, civil plaintiff, or civil defendant; (3) if he personally or any of his relatives are interested in the results of the case; (4) if there are any other

circumstances casting doubt on the objectivity of the judge or people's assessor. Persons related to each other may not be members of a court that is considering a criminal case."

Article 62, "Challenge of Interpreter, Expert, Specialist, and Secretary of Judicial Session," states that the rules in Article 54 also apply to an expert. *Ugolovno-protsessual'nyi kodeks Ukrainskoi SSR*, pp. 78-79 and 85; *Soviet Criminal Law and Procedure*, p. 222. [Translator]

⁴The postwar campaign against "rootless cosmopolitanism," a barely disguised incitement against Jews, resumed in January 1953, when nine Kremlin doctors, six of them Jews, were accused of having conspired with the U.S. and British intelligence services (through the American Jewish Joint Distribution Committee) to murder Soviet leaders. The press whipped up diatribes against "murderer-doctors who have become monsters in human form," but the campaign collapsed because of Stalin's sudden death in March 1953. A month later Moscow radio announced that the "Doctors' Plot" was a fabrication and that the charges against the physicians were false. Had Stalin not died, however, the case could well have led to the mass deportation of Jews. See Isaac London, "Days of Anxiety." *Jewish Social Studies*, vol. 15 (1953), pp. 275-92. [Translator]

⁵The Solovetsky Islands in the White Sea are the site of monasteries to which opponents of the Tsar and the Orthodox Church were exiled since the Middle Ages. Soviet labor camps existed on the islands in the 1920s and 1930s. [Translator]

⁶Only the general part of the indictment is reproduced here. Specific charges are set off in boxes before the examination of the witnesses involved.

⁷Article 168 of the Criminal Code, "Taking of Bribes," reads: "The taking by an official personally or through an intermediary, in whatever form, of a bribe for performance or nonperformance, in the interests of the giver, of any kind of action which the official has a duty to perform or can perform by utilization of his official position, shall be punished by deprivation of freedom for a term of three to ten years with confiscation of property.

"The same actions committed by an official who is occupying a responsible position, or who has been previously convicted of bribery or of having taken bribes repeatedly, or in conjunction with the extortion of a bribe, shall be punished by deprivation of freedom for a term of eight to fifteen years with confiscation of property and with or without exile for a term of two to five years after the serving of deprivation of freedom, or, under especially aggravating circumstances, by death with confiscation of property." *Kryminal'nyi kodeks Ukrain'skoi RSR*, p. 72; *Soviet Criminal Law and Procedure*, p. 176.

Article 143 of the Criminal Code, "Swindling," states: "The taking possession of personal property of citizens or the acquisition of a right to property through deception or abuse of trust (swindling) shall be punished by deprivation of freedom for a term not exceeding two years or by correctional tasks for a term not exceeding one year.

"Swindling causing significant loss to the victim or committed by a group of

persons in accordance with a preliminary agreement shall be punished by deprivation of freedom for a term not exceeding five years with or without confiscation of property.

“Swindling committed by an especially dangerous recidivist shall be punished by deprivation of freedom for a term of four to ten years with confiscation of property and with or without exile for a term not exceeding five years.” *Kryminal’nyi kodeks Ukrains’koi RSR*, p. 62; *Soviet Criminal Law and Procedure*, p. 170. [Translator]

⁸The prosecutor’s insulting remark about the Ukrainian language no doubt says more than all the official pronouncements about the “flowering” and “enrichment” of non-Russian languages under Soviet rule. The prosecutor might consult Article 19 of the Code of Criminal Procedure of the Ukrainian SSR, which states flatly: “Judicial proceedings shall be conducted in the Ukrainian language.” The commentary on the code states that “this principle applies to all stages of a criminal case” and cites as its authority Article 110 of the Constitution of the USSR and Article 90 of the Constitution of the Ukrainian SSR. *Ugolovno-protsessual’nyi kodeks Ukrainiskoi SSR*, pp. 31-32. [Translator]

⁹Paragraph 3 of Article 34 of the Code of Criminal Procedure, “Criminal Cases within Jurisdiction of Provincial Courts,” stipulates that provincial (*oblast’*) courts have jurisdiction over cases under Article 168, Paragraph 2, of the Criminal Code. *Ugolovno-protsessual’nyi kodeks Ukrainiskoi SSR*, p. 54. [Translator]

¹⁰Article 225 of the Code of Criminal Procedure, “Referral of Criminal Case to Procurator [Prosecutor],” states that “after signing a conclusion to indict, an investigator shall immediately refer the case to a procurator.” *Ugolovno-protsessual’nyi kodeks Ukrainiskoi SSR*, p. 250; *Soviet Criminal Law and Procedure*, p. 268. [Translator]

¹¹The Military Boards (*voenkomaty* or “military commissariats”) are operated by the Ministry of Defense and have the duty of taking inventory of human and material resources and preparing young men for conscription into the army. “Inductee” is used here to translate *doprizyvnik*—a young man who is undergoing military training under the supervision of his local Military Board before being inducted into the army. [Translator]

¹²About four feet, seven inches and seventy-three pounds. [Translator]

¹³The Medical-Labor Boards are run by the Social Security administration. They are composed of three physicians (a therapist, a surgeon and a neuropathologist), a representative of the Social Security administration, and a representative of the trade unions. They determine degrees of disability and invalidity for establishing compensation. [Translator]

¹⁴The Komsomol, or Leninist Young Communist League, is a mass youth organization, which assists the authorities in conducting physical culture, sports and military training programs. It operates an extensive system of political schools and study circles and publishes more than a hundred newspapers and some forty magazines. The most important function of the Komsomol is identifying activists and recruiting them into the Party. [Translator]

¹⁵Article 197 of the Code of Criminal Procedure, "Rights of Accused During Assignment and Conduct of Expert Examination," states in part that an accused shall have the right to challenge an expert while an expert examination is being ordered and conducted. *Ugolovno-protsessual'nyi kodeks Ukrainskoi SSR*, p. 225; *Soviet Criminal Law and Procedure*, p. 262. [Translator]

¹⁶Stern is apparently referring to Sidney C. Werner, *The Thyroid: A Fundamental and Clinical Text*, third edition (New York: Harper & Row, 1971) and Arthur Grollman, *Clinical Endocrinology and Its Physiologic Basis* (Philadelphia: J. B. Lippincott, 1964). [Translator]

¹⁷The MVD or Ministry of Internal Affairs is responsible for the maintenance of public order. The KGB or Committee of State Security is the political police and intelligence service. During the Great Purge in 1937 Stalin murdered almost the entire leadership of the Soviet armed forces. [Translator]

¹⁸Dr. Stern naively assumes that the KGB men who broke into his apartment were hoping to find something there. He does not know that they had the opposite purpose in mind. During the break-in compromising material was planted in the apartment to rig a case of spying and poisoning against him. The material was secretly removed on May 29, 1974.

¹⁹Vera Cheberiak, the leader of a criminal gang in Kiev, was the outstanding figure at the Beilis trial (see note 1 on p. 262) and was the State's key witness, although the government and the prosecution knew that she had been a party to the murder.

Lidia Timoshchuk became an overnight celebrity in the Soviet Union when she supposedly exposed the "Doctors' Plot" (see note 4 on p. 263). She received the Order of Lenin, the highest distinction in the Soviet Union, "for assistance rendered to the Government in exposing the murderer-doctors." Timoshchuk's Order was revoked the same day the Doctors' Plot was presented as a fabrication. [Translator]

²⁰Article 296 of the Code of Criminal Procedure, "Filing and Disposition of Petitions," states that "the person presiding shall ask the participants at the hearing in court whether they have petitions to summon new witnesses and experts or to acquire and file new evidence. . . . The refusal to grant a petition shall not limit the right to file the same petition at some point in the course of the entire judicial examination." *Ugolovno-protsessual'nyi kodeks Ukrainskoi SSR*, pp. 319-320; *Soviet Criminal Law and Procedure*, p. 287. [Translator]

²¹About six inches and thirty-three pounds. [Translator]

²²The Black Hundreds were goon squads organized by the Union of the Russian People, a proto-fascist organization active in the last years of the old regime which maintained that every ill of the country was chargeable to the Jews. Its program enjoyed official support (Tsar Nicholas accepted honorary membership for himself and his son) and consisted of hunting down revolutionaries, staging pogroms and fomenting discord among the subject nationalities of the Empire. The slogan of the Black Hundreds was "Beat the Yids—Save Russia." [Translator]

²³See note 4 on p. 263 and note 19.

²⁴Article 206 of the Criminal Code deals with “hooliganism, that is, intentional actions violating public order in a coarse manner and expressing a clear disrespect toward society.” *Kryminal'nyi kodeks Ukrains'koi RSR*, p. 88; *Soviet Criminal Law and Procedure*, p. 186. [Translator]

²⁵A specialist in the study and treatment of pulmonary tuberculosis. [Translator]

²⁶This important witness in the Huzhva episode is never examined. He receives a summons to appear in court two days after the verdict has been delivered.

²⁷Balmazia and Huzhva are never confronted with each other. Neither of them appears in court again.

²⁸Sentences of deprivation of freedom are normally served in “corrective labor colonies,” prisons being reserved for more severe punishment. There are four types of these camps with increasingly harsh régimes: general, hard, strict and special. Most offenders are sent to camps of the first two categories, but some habitual criminals and all political prisoners are sent to strict- or special-régime camps. Exile refers not to expulsion from the Soviet Union, but to forced residence in a specified area, which is often in Siberia. A sentence of exile usually constitutes a subsidiary punishment which comes into operation after a term of confinement has been served. [Translator]

²⁹For specific episodes, see the Cassational Appeal in the appendix.

³⁰*The Protocols of the Elders of Zion* were concocted by Russian secret service agents in 1895. Purporting to be the minutes of clandestine meetings of Jewish leaders in the 1890s (a time that coincided with the first World Zionist Congress), the tale discussed ritual murder at length and told of a Jewish conspiracy to take over the world. Through its agents, the Russian Masons, Britain was supposedly planning to have Russia enslaved by Theodor Herzl's World Zionist Organization. This apocryphon was disseminated by the same people who engineered the Beilis case and attained wide notoriety after World War I. See Herman Bernstein, *The Truth About “The Protocols of Zion”* | *A Complete Exposure* (New York: Ktav Publishing House, 1971) and John Skelton Curtiss, *An Appraisal of the Protocols of Zion* (New York: Columbia University Press, 1942). [Translator]

³¹See note 4 on p. 263.

³²Ilya Mechnikov (Elie Metchnikoff in the French spelling), 1845-1916, was a prominent zoologist and bacteriologist. He was awarded the Nobel Prize in 1908 for his discovery of phagocytosis. [Translator]

³³See note 22 on p. 265.

³⁴Claiming that he had Stalin's personal support, the agronomist Trofim Lysenko (1898-1976) denounced the gene theory of heredity as reactionary and advanced his own theory that the inheritance of physical characteristics can be manipulated in plants by their environment. Beginning about 1931, Lysenko led a campaign to destroy his critics. Discussion of his claims in the press was banned, and many reputable scientists were sacked from their posts or even arrested.

Nikolai Vavilov (b. 1887) was an outstanding plant breeder and applied geneticist who headed the opposition to Lysenko's charlatanry. In the virulent climate of the late 1930s, Lysenko's followers labeled Vavilov "an enemy of the people" and "Trotskyite-Bukharinist diversionist." Vavilov was arrested in August 1940, tried on charges of "wrecking activities" and sentenced to death. This was commuted to a term of ten years, but Vavilov died in prison in 1943. The USSR Supreme Court rehabilitated Vavilov for lack of a *corpus delicti* in 1955. Zhores Medvedev, the Russian dissident biologist, has given an account of Lysenko's career in *The Rise and Fall of T. D. Lysenko*, translated by I. Michael Lerner (New York: Columbia University Press, 1969; Anchor Books, 1971). [Translator]

³⁵Stern is slightly misquoting "To N. K. S." by Pavlo Hrabovsky (1864-1902), a Ukrainian populist poet. [Translator]

³⁶Article 42 of the Criminal Code, "Assignment of Punishment Where Several Crimes Have Been Committed," states that "if a person is deemed guilty of the commission of two or more crimes provided for by different articles of the Criminal Code, and has not been convicted of any of them, the court, having assigned a punishment separately for each crime, shall determine a final aggregate punishment by absorbing the less severe punishment in the more severe or by fully or partially cumulating the punishments within the limits established by the article which provides for the most severe punishment.

"To the basic punishment may be joined any of the supplementary punishments provided for by the articles of the law which establish responsibility for those crimes the person has been found guilty of committing." *Kryminal'nyi kodeks Ukrains'koi RSR*, p. 22; *Soviet Criminal Law and Procedure*, p. 139. [Translator]

³⁷Article 470 of the Civil Code, "Exaction of Unfoundedly Obtained Property for State Revenue," provides that "property obtained at the expense of another person not by transaction, but as a consequence of other actions committed with an aim known to be contrary to the interests of the Socialist state and society, if it is not subject to confiscation, shall be exacted for State revenue. A person who has unfoundedly received property shall also be required to return or to replace all profits which he has derived or should have derived from the unfoundedly obtained property." *Grazhdanskii kodeks Ukrainskoi SSR* [Civil Code of the Ukrainian SSR] (Kiev: Izdatel'stvo politicheskoi literatury Ukrainy, 1973), pp. 168-169. [Translator]

³⁸Article 275 of the Code of Criminal Procedure, "Limits of Judicial Examination," stipulates that "the examination of a case in court shall be conducted only with respect to the accused and only in accordance with the accusation upon which he has been brought to trial."

Article 277 of the Code of Criminal Procedure, "Changing of an Accusation in Court," provides that "the changing of an accusation in court shall be permitted if this does not worsen the position of the person brought to trial and does not violate his right to defense. If the changing of the accusation entails violation of the right to defense of the person brought to trial, the court shall refer the case for supplementary investigation or inquiry." *Ugolovno-protsessual'nyi kodeks Ukrainskoi SSR*, pp. 298-300; *Soviet Criminal Law and Procedure*, pp. 281-282. [Translator]

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years of medical practice were "coincidentally" filed with the police over a three-day period.

Soviet police interrogated more than 2,000 of Stern's patients, intimating that the Jewish doctor was ritually murdering Gentile children and poisoning patients. Despite this official anti-Semitism, many of the Ukrainian peasants demonstrated considerable heroism by defying the prosecution and rejecting falsified pre-trial testimony being passed off in their names.

Favorable evidence was suppressed. Only 3 of 112 defense witnesses were permitted to testify. When hundreds of Western physicians protested the trumped-up charges to Moscow, new "crimes" were concocted. Stern was now being charged with accepting bribes for medical favors, selling drugs at inflated prices and engaging in various indecent sexual acts with children in the course of medical examinations.

Dr. Stern was found guilty by the Soviet court and was sentenced to eight years at hard labor. He was released after almost four years and now resides in Tel-Aviv, Israel.

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My conscience is clear, for it is better to die on one's feet than to live on one's knees.

—Mikhail Stern's Testament [written in the labor camp]

JUDGE: Nationality?

STERN: As long as there is one anti-Semite left in this world . . .

JUDGE: Stop, Stern, stop!

STERN: . . . I shall reply loudly: I am a Jew!

—Initial questioning in the trial of Stern

My personal fate is of no interest to anyone except my family, but I am thoroughly convinced that my trial is intended as an important precedent for all those who might want to make use of their legal rights, including the right to leave this country.

—Mikhail Stern's declaration in a Soviet court

Dr. Mikhail Stern was arrested, deprived of his freedom, deported and tortured on the basis of false testimony. Any police force in the world can, in a week's time, invent the same scenario against any of us. The courts can be made to comply with "reasons of state".

—Dr. Jean-Louis Levy [Alfred Dreyfus' grandson]

Jean-Paul Sartre drafted a petition published in *Le Monde* (25 March, 1976) and signed by more than fifty Nobel Prize winners. It concludes with these words:

Dr. Mikhail Stern, who has devoted his life to the relief of human suffering, is slowly being killed in a forced-labor camp. Are we going to keep silent, waiting until he dies solely for having refused to collaborate with the KGB by forbidding his sons to leave Russia? Each of us, each of you, may one day fall victim to the machinations of a state. We must never cease reminding the state apparatus of the one limit set to its omnipotence: man's sense of justice.

Among the signers were Samuel Beckett, Eugenio Montale, Heinrich Böll, Jacques Monod, George Wald, Albert Szent-Györgyi and Gunnar Myrdal.

