

CONFESSION GOT BY THIRD DEGREE IS NOT ACCEPTED

United States Supreme Court Declares That It Is Not Admissible.

AN AMAZING STORY

Presidential Candidate Davis Took Up Case of Young Chinese.

A fight of more than four years to save the life of a young Chinese student convicted of a triple murder, in which John W. Davis played an important part, appeared to the youth's friends here to have been won when they received word yesterday, says Tuesday New York Times, that the United States Supreme Court had ordered a new trial. The court held that the confession of the Chinese, Ziang Sung Wan, was inadmissible, because after Wan was arrested in New York and taken to Washington, where the crime was committed, he was "third-degred" for eleven days.

Wan, who had been a student at Columbia University, confessed to having killed Dr. Ben Sen Wu, Under Secretary of the Chinese Educational Mission, and his two secretaries, Dr. C. H. Hsieh and Dr. Theodore T. Wong, who were found shot to death in the cellar of the mission on Jan. 21, 1919. It was so largely on the basis of that confession that he was convicted and sentenced to be hanged that men in New York who, believing in his innocence, have waged an unrelenting fight in his behalf. They declared yesterday that he probably never would be tried again and that if he were he would be acquitted.

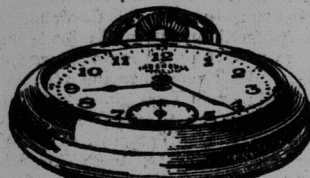
An interesting phase of the case was that efforts in Wan's behalf have never ceased in all the years he has lain in jail, although he was penniless and no material sum ever was raised in his behalf. The Chinese Government is said to have spent a considerable sum to aid in prosecuting him, because the murder victims were members of its official Government family. They are even said to have gone so far as to confiscate his widowed mother's small property in Shanghai. Wan's American friends raised among themselves the money necessary for court fees, and the like, and resolved to appeal only for services. It was on that basis that an appeal was made to Mr. Davis to interest himself in the young alien's behalf. One of those instrumental in getting Mr. Davis's services called the lawyers showed great interest when all the queer circumstances of the case and the helpless situation of the convicted man were presented to him. He consented to act, even though things looked black after the Court of Appeals had upheld the local court, provided an examination of the records should convince him that Wan had not had a fair trial.

Mr. Davis Did Not Forget.

The records were sent to Mr. Davis's office, according to the story told last night, he became satisfied that there was strong ground for taking the question of the admissibility of the confession to the highest tribunal and then Mr. Davis called for Europe. One of Wan's most active friends lost heart then, particularly when he read that John W. Davis was entertained by the King and Queen of England. But the very first thing Mr. Davis did when he returned to New York was to sign a brief and submit it to the Supreme Court. The case was argued before the court by William C. Dennis and Charles H. Fahy and yesterday in an opinion rendered by Associate Justice Brandeis a new trial was ordered for Wan on the ground that both his alleged oral admission of guilt to the police and the confession that induced him to sign should have been excluded as a matter of law, since in that respect "there was no issue upon which the jury could properly have been permitted to pass."

Aside from the interest in the case created by the strange web of circumstance in which Wan became entangled, and the outcome of the unforgiving fight to save him, it was regarded by lawyers and police authorities as having an important bearing on the admissibility of confessions obtained by the use of capital cases under methods that might be interpreted as duress. James A. O'Shea, arguing against the admissibility of the confession at the original trial, reasoned that had a man signed a will under such conditions as those under which the confession admittedly was extorted from the suspect, no court in the land would have held that will valid. The highest court, in agreeing that such evidence, so obtained, is inadmissible recites in some detail the experience which Wan underwent after he had been arrested in New York as he was in the act of writing a telegram of condolence on reading the newspapers that Dr. Wu and his assistants had been murdered. Dr. Wu was an old family friend, had taken an interest in

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The Story of the Confession.

Wan was arrested on information of a Chinese who lived near the mission, who told that he had gone there, apparently after the murders had been committed and had been admitted by Wan and by him informed that Dr. Wu and his secretaries were out. After he was taken to Washington he was placed in the Dewey Hotel and kept under an almost constant fire of police questioning. In reviewing the means of obtaining the confession, Justice Brandeis says that on the eighth day:

"The Superintendent of Police returned to his home apparently exhausted. One of the detectives had fallen asleep. To Wan not a moment of sleep was allowed."

"On the ninth day, at 5:20 o'clock in the morning, Wan was taken from the mission to the station house and placed formally under arrest. There the investigation was promptly resumed. Again the detectives were in attendance day and evening, plying their questions, arguing with the prisoner and urging him to confess lest his brother be deemed guilty of the crime. Still the statements secured failed to satisfy the detectives craving for evidence."

"On the tenth day Wan was again taken to the mission, was again questioned for hours, and there the whole thing was again talked of and enacted. On the eleventh day a formal interrogation of Wan was conducted at the station house by the detectives in the presence of a stenographer. Continuing the recital, Mr. Brandeis depicted the torment to which Wan was subjected to the torture Wan underwent. 'If he was as sick as that and in as great pain as that he would do anything to have the torture stopped.' This paragraph in the record

was stressed by Justice Brandeis in his decision. The motive in the triple murder, one of the most sensational in the crime annals of the capital was always believed to have been to insure the cashing of a forged check for \$5,000 to the mission funds. Wan's brother, T. Li Wan, was arrested, charged with the forgery, but the falsely uttered instrument had disappeared and he could not be convicted.

To appreciate the full flavor of the situation in which these two Chinese boys found themselves in a strange land it is necessary to go back a few months before the crime. The boys had come from an aristocratic family in Shanghai, and their widowed mother was doing her best to maintain them while they got an Occidental education. Wan found his income insufficient, and, lest his chums know of his mental occupation, very secretly took a job as valet for Hugh A. O'Donnell of 22 West Sixty-first street. Mr. O'Donnell found the youth friendly and honest, but shy, sensitive and superstitious.

Frightened at Cat's Eye Pica. Mr. O'Donnell had not had his Chinese valet very long when, one night he took from his table a cat's eye pica which had been given to him by a baseball player who brought it from the South Sea Islands. The boy began to shake and tremble, and with evident anxiety asked his employer if the stone were a real cat's eye. Mr. O'Donnell supposed so, but didn't know, whereupon Wan informed him that he could tell by putting a drop of water on it. If it were real the drop would roll off whole; if not, it would break and spread. The experiment was conducted, the stone proved to be genuine and Mr. O'Donnell because of the youth's obviously genuine agitation, asked for an explanation.

Wan said the stone was the petrified eye of one of the gods of his ancestors who had gone into the mountains to die; that for him to have handled it at all was a terrible sacrilege and that some awful misfortune surely would overtake him. The American tried to make light of the youth's fears, but had no great success. When he reached his home the next night, he found a note, but no valet. Wan had put the cat's eye away in a drawer, left directions where to find it, and departed. Mr. O'Donnell sent for him and tried to coax him back. Wan would not come.

The next time Mr. O'Donnell heard from Wan he was in jail in Washington, charged with murder. The circumstances which put him there are seldom equaled by those of the two Chinese who, having their young heads full of an inexorable maze of superstition, went to Washington to visit Dr. Wu, he and the brothers having consented to their early friendship when they crossed the Pacific on the same ship. Wan suffered a recurrence of stomach trouble, which had plagued him before, left the mission because it was short-handed and he needed nursing. Wan went to a small hotel and found his brother to come and take care of him. T. Li Wan visited his brother and depicted the torment to which Wan was subjected to the torture Wan underwent. 'If he was as sick as that and in as great pain as that he would do anything to have the torture stopped.' This paragraph in the record

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English to understand each other. They wanted me to go somewhere with them. I said I had to return to sick brother." Presented Check at Bank. The next day the brothers went to the Union Station preparatory to returning to New York, where they had a room. T. Li went to buy the tickets and encountered the two strangers once more, this time in the smoking room. "They call me over and again made 'fuss' over me, at same time stating they want me to do them favor by cashing check for them at a bank." Having at times found himself in a similar predicament, T. Li finally consented to go to the Riggs National Bank and rode there in a taxicab with the two Chinese. At the door the stranger handed him an envelope, told him to take it to the cashier and to telephone to the Chinese Educational Mission. T. Li maintained that he never saw the check, having handed it in the window in the original envelope and offered the telephone suggestion as he had been directed. He was kept at the bank for forty minutes while efforts were made to communicate with the mission, a paying teller having doubted the signature of Dr. Wu, whose name was signed to the check which was for \$5,000. At that time Wu and his two secretaries lay dead in the mission, their bodies still undiscovered. At last the bank being doubtful, T. Li was politely asked to come back another day and the envelope with the check in it was returned to him. The big Chinese grabbed the envelope when T. Li re-entered the taxicab. They drove a little way and the short Chinese appeared. The big fellow got out, the pale disappeared and T. Li rejoined his brother at the station. It was that incident, plus the visit of Wan to the mission, the door of which he found open, while the murdered man lay in the basement, and the chance that a Chinese neighbor called at the mission and found him there led to the conviction. The two strange Chinese and the forged check were never seen or heard of afterward.

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