I am grateful to the Editors of the Review of Socialist Law for their invitation to reply to Dr. Münzel's comment on my article. Though I am a little puzzled as to how to proceed since Dr. Münzel's comments seem to me to have almost no relation to what I wrote. It seems to me more or less as if Dr. Münzel looked at my article, saw the words "trade law", thought what he would like to say about Chinese trade law, looked back at my article and saw that what I said was not the same, took violent umbrage, and then rushed into battle, guns blazing. I might agree with him on the subject of what an article on Chinese trade law—as he uses the term—ought to be based on if I had ever thought about it. As it happens, I have not done so. I certainly have never written such an article. What I did write was an article on how one might study Chinese law, just as its title indicates.

The reason I wrote the article, or rather the reason I did the work that led to the article, was that I find Chinese law a very difficult field. So does everyone I know who is connected with it. After reading this piece by Dr. Münzel, it seems to me that he is in the same boat with the rest of us. Most of us—myself certainly included—have felt that the difficulties have mostly lain in the lack of reliable written materials and the inability, because of government restrictions, to do what most of us would regard as adequate field work. These problems are certainly very real ones. But it has seemed to me that perhaps an even greater problem is our inability to understand the data we do have. And it has begun to seem to me that part of our problem—my problem anyway—has been that I was trying to find a European legal system and was disappointed because I did not find the type of data to which I was accustomed in studying legal systems. It occurred to me that it might be profitable instead to make the assumption that the Chinese legal system is quite different from ours. Supposing that to be the case, what materials do you study? As it happens, the Chinese government published a body of material from 1949-1963 that it labelled "Collected Laws". These were edited in that they do not contain all the statutes and regulations that were promulgated. Moreover the statutes are arranged according to subject matter—organic laws, agriculture, culture, labor, trade, etc. It occurred to me that it might be useful to make the assumption that these "laws" were "law" to the Chinese government. Further, that it might be profitable to analyze them in
an effort to find their basic concepts just as the Pandectists analyzed European (principally Roman) law and came up with such notions as "Person", "Declaration of Intention", "Juristic Act", "Good Faith", and the like, as basic elements of the European legal system and drafted a Code—the BGB—which made these notions the explicit law.

Of course, all Europeans have publications similar to the Collected Laws. That is, publications that include all or selected enactments of the relevant legislative body. But though these are "laws", they are not "law". "Law" is the Civil Code or its common law equivalents—torts, contracts, property, restitution, etc. This is what is taught to law students when they begin to study law, and this is what they use to analyze problems that they characterize as legal. We all tend to pigeon-hole new data as they come into our experience into some existing mental category. If the data are regarded as legal, then European jurists will try to fit them into the categories of a system whose basis is the civil law and which uses the law suit or some equivalent as the means of resolving disputes. This is what law is to Europeans, and it means that law concentrates on relations between individuals or persons, on the problems that arise between persons, and on the resolution of disputes between persons. The system has proved capable of being applied to a great variety of situations. It can assimilate great business combinations in countries that are capitalist, and state enterprises in those that are socialist. It can even be used to describe the relations between nation-states. The state is substituted for a person, treaty for contract, etc. No doubt it represents some aspect of society that has a sort of universal truth. Human beings are ultimately separate from one another, and they do have relations with one another.

But it is not the only way of looking at law. It was certainly not the Chinese way. For one thing, it is taught. We simply assume that law is the subject for intense study. It has been the center of European university education for so long as there have been universities (and this is to say nothing of the Roman tradition). This was not the case in traditional China. They had law—reams of it. They also had intellectuals. And the intellectuals wrote the law and applied it, but they did not study and teach it the way they did philosophy or literature. Moreover, it was not about the relations between individuals. It was about the way the government functioned. It did not look at law from the point of view of the individual but from the point of view of the center of the government—the emperor. Individuals were the objects of government. Their relations between themselves became the subject of law if they affected the government, but otherwise not. Thus, the Chinese had a mortgage somewhat similar to the traditional English mortgage in which the mortgagee took possession and the mortgagor had a right to regain possession when he paid off the debt. The law took cognizance of the mortgage because it was necessary to decide who should pay the taxes on Blackacre—the mortgagor or the mortgagee. Incidentally, it enforced the