Rosenberg
Case Summary

*You may also see 65-58236-2059; Volume #35

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STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO : Mr. Nichols

DATE: September 25, 1953

FROM : M. A. Jones

SUBJECT: THE ROSENBERG ESPIONAGE CONSPIRACY "LOOK" MAGAZINE

CONFIDENTIAL

Tolson
Ladd
Clegg
Glavin
Nichols
Rosen
Tracy
Harbo
Belmont
Mohr
Tele. Room
Nease
Gandy

CONFIDENTIAL

A summary of the Rosenberg espionage conspiracy was written by the Domestic Intelligence Division. You requested that we prepare a memorandum on the basis of this summary for publication in the above-captioned magazine. The attached memorandum contains a detailed account of the Rosenberg spy case with its extensive ramifications.

The original memorandum written by the Domestic Intelligence Division was reviewed by that Division to protect our informants. Reference to [redacted] was deleted as was the name of Jerome Eugene Tartakow who was in the same jail with Rosenberg. Tartakow furnished information to the Bureau. b1

At your request the names of VIVIAN GLASSMAN PATAKI, ANNE and MICHAEL SIDOROVICH were omitted.

Vivian Glassman Pataki contacted William Perl as an intermediary with money and instructions for him to leave the United States.

The Sidorovichs are the husband and wife who were supposed to contact Greenglass in New Mexico.

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

RECOMMENDATION:

That the attached memorandum, if found suitable, be submitted to "Look" magazine as reference material in connection with a proposed article that is to appear in this magazine on the Rosenberg case. done 12/3 - see Sec 355 cg

Classified by 7-18-83 RFP/tj
Declassify on: OADR
56,261
3042 PWJ/DB 6/15/87

Attachment

ADDENDUM: October 1, 1953, APL:blb
The Domestic Intelligence Division has no objection to the attached memorandum being submitted to "Look" magazine as reference material. However, it is recommended that any proposed article prepared from this material be submitted to the Bureau for review prior to publication.

RECORDED-52 94-3-4317-348X

INDEXED-52 DEC 17 1953

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52 DEC 29 1953

CONFIDENTIAL

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GLOSSARY

Abel, Louis	Abel testified at the Rosenberg trial. He is the brother-in-law of David Greenglass. Abel contacted O. John Rogge, attorney, at the request of Greenglass. Rogge was counsel for Greenglass. (pp. 33, 47)
Barr, Joel	David Greenglass testified that after the arrest of Harry Gold in May, 1950, Rosenberg attempted to persuade him (Greenglass) to leave the United States. Rosenberg also told Greenglass that more important persons than Greenglass had left the country and mentioned that Joel Barr left the United States before Fuchs was arrested and was working for the Russians in Europe. Barr's present location is not known. (p. 68)
Bautista, Dora	This witness identified Sobell as an individual who registered in a hotel in Tampico, Mexico, in July, 1950. (p. 62
Begun, Isidore	Morton Sobell signed a Communist Party petition for Isidore Begun, a Communist Party candidate, on August 8, 1939. (p. 14)
Bentley, Elizabeth Terrill	She testified at the Rosenberg trial and admitted that she was formerly a Communist courier. (p. 57)
Bernhardt, George	He was the physician for the Rosenbergs and testified at the Rosenberg trial. Rosenberg asked him about injections needed to go to Mexico. (p. 44)
Bloch, Emanuel H.	Attorney for the Rosenbergs. (p. 16)

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Bohr, Neils	In his testimony, Greenglass stated that while at Los Alamos he learned the identity of Neils Bohr whose cover name was Baker. This is the only reference to Bohr in the memo. (p. 22)
Brainin, Joseph	In January, 1952, a "National Committee to Secure Justice in the Rosenberg Case" was formed with Joseph Brainin as chairman. The office of this committee was located at 246 Fifth Avenue, New York City. (p. 76)
Brothman, Abe	Harry Gold worked for Abe Brothman Associates. Yakovlev, Soviet vice-consul, told Gold that Brothman had been investigated in 1945 and that Gold had almost ruined eleven years of work by working for Brothman. (p. 42)
Cox, Evelyn	She is a Negro maid who worked part time for the Rosenbergs and testified to seeing a new table in the living room of the Rosenberg apartment sometime in 1945. This table was given to the Rosenbergs by the Russians accordi to David Greenglass. (p. 45)
Danziger, William	He testified at the Rosenberg trial. He advised Sobell told him he was leaving for a vacation in Mexico. He received mail from Sobell sent from Mexico and forwarded an enclosure in this letter to Edith Levitov. (p. 60)

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Dean, Emanuel Clarence	Dean was a member of the Rosenberg jury. He is a Negro. (p. 97)
Dennis, Glenn	He testified at the Rosenberg trial. At that time he was a travel superintendent of the CMA Mexican Airlines. (p. 63)
Derry, John A.	He testified at the Rosenberg trial. He was a U. S. Army officer from 1942 to 1946. He gave testimony that the sketch of the atom bomb drawn by David Greenglass was a sketch of the type of atom bomb which was dropped on Nagasaki, Japan, in 1945. (p. 47)
Edelman, Irwin	Edelman petitioned the Supreme Court of the United States for a writ of habeas corpus on behalf of the Rosenbergs in 1953. (p. 134)
Elitcher, Max	Elitcher testified that he was acquainted with Sobell and Rosenberg. He testified that Rosenberg asked him for information regarding his work which might be of value to the Soviet Union. (p. 48)
Espinosa, Minerva Brocado	This witness at the Rosenberg trial identified Sobell as one who purchased eyeglasses from her in Vera Cruz. (p. 62)
Farmer, Fyke	He is an attorney who submitted a petition for a writ of habeas corpus before a Federal judge of the court of the Southern District of New York, requesting the release of Julius and Ethel Rosenberg. (p. 133)
Flynn, Elizabeth Gurley	The National Committee of the Communist Party issued a statement on June 23, 1952, signed by Flynn charging that the Rosenbergs were "foully murdered." (p. 152)

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Foster, William Z.	Foster's signature also appeared on the petition signed by Elizabeth Gurley Flynn. (p. 152)
Fuchs, Klaus	Fuchs was arrested by the British on February 2, 1950, and admitted his involvement in Soviet atomic espionage. (p. 2)
Gold, Harry	Harry Gold testified at the Rosenberg trial that he was engaged in Soviet espionage from 1935 up to the time of his arrest in May, 1950. (p. 35)
Greenglass, David	He testified at the Rosenberg trial that he stole information about the atom bomb and turned this matter over to Julius Rosenberg. (p. 22)
Greenglass, Ruth	She corroborated the testimony of her husband, David Greenglass, at the Rosenberg trial. (p. 34)
Gurewitz, Clarence Darrow	Morton Sobell married Helen Levitov Gurewitz in March, 1945. His wife was previously married to Clarence Darrow Gurewitz. (p. 12)
Gurewitz, Helen Levitov	She is the wife of Morton Sobell. (p. 12
Jackson, I.	Rosenberg told David Greenglass to flee to Mexico. Upon his arrival in Mexico City, he was to send a letter to the Soviet Embassy in Mexico City and sign it "I. Jackson." (p. 32)
Kelly, Thomas V.	He was called as a defense witness in the Rosenberg trial. He testified tha the sales records of Macy's Department Store for the year 1944 and 1945 had been destroyed. (p. 63)
Kistiakowsky, Dr.	Greenglass testified that he worked in a group at Los Alamos under Dr. Kistiakowsky of Harvard University. (p. 22)

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Koski, Walter S.	Koski, a nuclear chemist, testified at the Rosenberg trial. His testimony related to the sketches of the atom bomb prepared by David Greenglass at the trial. (p. 46)
Levitov, Edith	William Danziger testified that he received mail from Sobell postmarked in Mexico City. The return address on the envelope had the name of "M. or Morty Levitov" with a Mexico City address. The envelope contained a letter for Danziger, an enclosure for Edith Levitov and a note requesting Danziger to forward the enclosure to Edith Levitov. (p. 61) It is to be noted that Morton Sobell is married to one Helen Levitov. (p. 12)
Levitov, Morty	See comment on Edith Levitov. (p. 61)
Marshall, Daniel G.	He is an attorney who attempted to file a petition for a writ of habeas corpus on behalf of the Rosenbergs in June, 1953. (p. 136)
May, Alan Nunn	Judge Kaufman, presiding judge at the Rosenberg trial, in passing on the application of Julius and Ethel Rosenberg for clemency declared in substance: The court was not bound by the sentences imposed on Fuchs and Alan Nunn May who were convicted in Britain for violating the act known as the Official Secrets Act. (p. 121)
Oppenheimer, Dr.	David Greenglass testified that while at Los Alamos he learned the identity of Dr. Oppenheimer. Oppenheimer is not mentioned again in the memo. (p.
Pagano, Helen	She testified that in June, 1950, one Louis Abel brought to the office of attorney O. John Rogge a package of money wrapped in brown paper. (p. 48)

Perl, William	Perl was called before a Federal Grand Jury on September 11, 1950, and questioned concerning his association with Rosenberg, Sobell and others. He was indicted in March, 1951, on four counts of perjury arising out of certain denials he made concerning his acquaintances with these individuals. He was found guilty on two counts and sentenced to serve five years in prison on each count. The sentences were to run concurrently. (p. 65)
Perry, Pettis	The National Committee of the Communist Party issued a statement on June 23, 1953, signed by Pettis Perry charging that the Rosenbergs were "foully murdered." (p. 152)
Printz, Dorothy	She is the sister of Ruth Greenglass. She testified at the Rosenberg trial that early in 1945 Julius Rosenberg came to the apartment which she shared with her sister. (p. 45)
Reuben, William A.	A series of articles appeared in the "National Guardian," unofficial weekly publication of the Communist-dominated Progressive Party, in the Summer of 1951. This series, written by William A. Reuben, "National Guardian" reporter, commenced with an article entitled "Is This the Dreyfus Case of Cold War America?" (p. 74)
Rios, Manuel de los	Rios testified that in July, 1950, he met Sobell and his family who had moved into an adjoining apartment in Mexico. (p. 61)
Ritche, R. Poland	He is an attorney who filed a petition for a writ of habeas corpus on behalf of the Rosenbergs in June, 1953. (p. 1[illegible]

Rosenberg, Julius	Principal subject. (p. 21a)
Rosenberg, Ethel	Principal subject. (p. 21a)
Sarant, Alfred	David Greenglass testified that Julius Rosenberg had two apartments in New York City which were used for photographic activities of the Rosenberg espionage network. Investigation has reflected that a Greenwich Village apartment at 65 Morton Street, New York City, was frequented by Rosenberg, Barr and Perl. This apartment was leased by Alfred Sarant. Sarant left New York City in August, 1950, and entered Mexico shortly thereafter. His present whereabouts is unknown. (p. 69)
Schneider, Ben	He testified that he took photographs of the entire Rosenberg family in May or June, 1950. (p. 44)
Slansky, Rudolf	Slansky was a former Czechoslovakian Communist leader who died on the gallows in 1952. (p. 44)
Sobell, Helen	Helen Levitov Gurewitz Sobell married Morton Sobell in 1945. (p. 12)
Sobell, Morton	Principal subject in the Rosenberg-Sobell trial. (p. 12)
Urey, Dr.	Greenglass stated that while at Los Alamos he learned the identity of Dr. Urey. He is not mentioned in any other part of the memo. (p. 23)
Vendrell, Jose Brocado	This witness identified a registration card of a hotel at Vera Cruz as bearin the name Morris Sand. Sobell's attorney conceded that the signature on this card was in the handwriting of Sobell. (p. 62)
Yakovlev, Anatoli	He was a former Soviet vice-consul in New York City. Harry Gold identified him as his Soviet principal to whom he turned over information. (p. 2)

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September 25, 1953

THE CRIME WORSE THAN MURDER

PART I

INTRODUCTION:

Sometime ago the Soviet Government publicly announced the detonation of an atomic bomb. Past experience had taught us to treat lightly Moscow pronouncements. However, the White House, in a solemn statement in September, 1949, related the disheartening news that startled and then shocked the Nation. "Newsweek" magazine, October 15, 1951.

The Kremlin had finally fathomed the secrets of the atom. Was this an inevitable accomplishment? To whom could the Russian Government pay tribute for this fateful discovery? Was it due to Russian scientific ingenuity or to American traitors?

To neither could be ascribed sole credit. Russian ingenuity in the scientific field had probably contributed immensely to this discovery. But what of the part played by American traitors? What of the part played by the executed atom spies, Julius and Ethel Rosenberg? This then is the story of their deed of infamy - a crime worse than murder.

Tolson
Ladd
Nichols
Belmont
Clegg
Glavin
Harbo
Rosen
Tracy
Gearty
Mohr
Winterrowd
Tele. Room
Holloman
Sizoo
Miss Gandy

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ORIGIN OF THE CASE

Information was received by the Federal Bureau of Investigation in the Summer of 1949 that the secret of the construction of the atom bomb had been stolen and turned over to a foreign power. Immediate investigation was undertaken. The investigation resulted in the identification of Emil Julius Klaus Fuchs, German-born British atomic scientist. British intelligence authorities were advised. Fuchs was arrested by the British on February 2, 1950, and admitted his involvement in Soviet atomic espionage. He did not know the identity of his American contact. The latter was subsequently identified through extensive Bureau investigation as Harry Gold, a Philadelphia chemist. On May 22, 1950, Gold confessed his espionage activity to the FBI.

Investigation of Harry Gold's admissions led to the identification of David Greenglass, a United States Army enlisted man who had been assigned at Los Alamos, New Mexico, in 1944 and 1945, as a Soviet agent. Gold related he had picked up espionage material from Greenglass during June, 1945, on instructions of "John," his Soviet principal. "John" was subsequently identified as Anatoli Yakovlev, former Soviet vice-consul in New York City, who left the U. S. in December, 1946. Interrogation of Greenglass and his wife, Ruth, resulted in admissions of espionage activity under the instructions of Julius and Ethel Rosenberg, brother-in-law and sister, respec-

tively, of David Greenglass. Max Elitcher, a Naval Ordnance engineer, and an admitted Communist, was interviewed. He disclosed that Morton Sobell, radar engineer and former classmate of Elitcher and Rosenberg at the College of the City of New York, was also involved in the Rosenberg espionage network.

BACKGROUND OF PRINCIPAL SUBJECTS

Julius and Ethel Rosenberg

Julius Rosenberg was born May 12, 1918, at New York City. He was the son of Harry and Sophie Rosenberg, Jewish immigrants, both of whom were born in Russia. He had one brother and three sisters.

Ethel Rosenberg, nee Greenglass, was born September 28, 1915, in New York City, the daughter of Barnett and Tessie Greenglass, also Jewish immigrants. Her father was born in Russia and her mother was born in Austria. Other members of her family included David and Bernard Greenglass, her brothers, and Samuel Greenglass, a half brother.

Ethel and Julius Rosenberg were married June 18, 1939, in New York City. They are survived by two sons, Michael Allen, born March 10, 1943, and Robert Harry, born May 14, 1947.

Julius and Ethel Rosenberg lived in the lower east side of Manhattan most of their lives. They attended Seward Park High School, Ethel graduating in 1931 and Julius graduating in 1934. Julius Rosenberg attended the School of Engineering of the College of the City of New York from September, 1934, until

February, 1939, when he graduated with a bachelor's degree in Electrical Engineering. He also took various courses at Brooklyn Polytechnic Institute and New York University School of Engineering during 1941. In September, 1940, Julius Rosenberg secured employment as a junior engineer (radio) with the War Department Signal Supply Office, New York General Depot, Brooklyn, New York. He was transferred in October, 1941, to the Signal Corps, Philadelphia, Pennsylvania. In October, 1942, he was transferred to the Newark Signal Corps, Inspection Zone, Newark, New Jersey. In February, 1943, he was promoted to the position of Associate Engineer, Inspection. He was suspended from his position on February 10, 1945, pending decision by the Secretary of War on recommendations made by his commanding officer for removal on the basis of information indicating his Communist Party membership. Rosenberg's employment with the Government was terminated March 26, 1945. On February 26, 1945, he had obtained employment as an Assistant Engineer with the Emerson Radio and Phonograph Corporation, 111 Eighth Avenue, New York City. This employment was terminated on December 7, 1945. From that date until his apprehension Rosenberg was in various businesses. At the time of his apprehension he was operating the Pitt Machine Products Corporation, 870 East Houston St., New York City, a general machine shop manufacturing all types of parts for various manufacturing concerns.

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Ethel Rosenberg was employed by the National New York Packing and Shipping Company, 327 West 36th Street, New York City, from February, 1932, to October, 1935. She was also employed at the Bell Textile Company, 353 Broadway, New York City, from August, 1938, to June, 1940. In June, 1940, she was appointed as a temporary clerk with the Census Bureau, Department of Commerce, Washington, D. C. On October 1, 1940, this employment was terminated.

SUBVERSIVE ACTIVITIES AND ASSOCIATIONS

Investigation revealed that it was about 1932 when Julius Rosenberg started associating with Ethel Greenglass. Julius was disliked by Ethel's parents and was not allowed to visit the parents' home at 64 Sheriff Street, New York City, from about 1932 until 1935. During that period Ethel and her two younger brothers, Bernard and David, occupied an apartment on a floor above the home of their parents because the parents did not have adequate room. Julius Rosenberg would visit Ethel frequently at this upstairs apartment without the parents' knowledge. This apartment was littered with copies of the "Daily Worker" and Communist Party literature. Julius and Ethel became violent Communists between 1932 and 1935 and after that maintained that nothing was more important than the Communist cause. They were very insulting toward anyone who disagreed

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with their views.

Information obtained in March, 1944, reflected that Julius Rosenberg was a member of the Communist Party and transferred from branch 16B of the Industrial Division of the Communist Party to the East Side group of the First Assembly District under Transfer No. 12179. This information was furnished to the Security and Intelligence Division, Second Service Command, Governors Island, New York, in view of Rosenberg's employment by the War Department at that time. Further investigation reflected that Rosenberg, while a student at the College of the City of New York, signed a petition urging the granting of a charter to a chapter of the American Students Union to be established at that college. This investigation also established that his wife, Ethel, had signed a Communist Party petition.

Rosenberg's position with the Government was terminated in December, 1945, as set forth hereinbefore.

A search of the Rosenberg apartment at the time of the arrest of Julius Rosenberg disclosed that Ethel and Julius Rosenberg were members of the International Workers

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Order.

Concerning Ethel Rosenberg, information was received by the New York Office of the FBI in May, 1940, to the effect that Ethel Rosenberg was extremely Communistic and had received an appointment to go to Washington, D. C., as an employee of the Census Bureau. It was further learned that Mrs. Ethel Rosenberg and another woman were alleged to have been Communist sympathizers and that Mrs. Rosenberg and this woman had distributed Communist literature and signed nominating petitions of the Communist Party. Ethel Rosenberg had also signed a Communist Party nominating petition dated August 13, 1939, in New York City.

Investigation reflected that Julius Rosenberg claimed to have joined the Young Communist League when he was fourteen years of age and that while at the College of the City of New York he was secretary of the Young Communist League. Rosenberg met his wife Ethel at a rally of the National Maritime Union in 1938. Ethel was an entertainer at the rally. While Ethel was employed by the New York National Shipping and Packing Company, she became involved in a strike at the company and supposedly chained herself to a radiator

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in the building during the strike. Rosenberg allegedly had been arrested during a demonstration concerning the German ship, S.S. Bremen, in New York City in the Summer of 1933 or 1936, and had spent a few days in the Old Tombs Prison.

It was also reported that Rosenberg had plenty of money but that only he or his wife, Ethel, had access to it and that the only reason he did not flee before his arrest was to "take care of some friends." Rosenberg was aware that he was liable to the death sentence and allegedly made the statement that as far as he was concerned, he played the game and lost, and would have to take the results.

Ruth Greenglass has advised that it was an accepted fact by all members of the Rosenberg and Greenglass families that Ethel and Julius Rosenberg were Communist Party members.

<u>David Greenglass</u>

David Greenglass, younger brother of Ethel Rosenberg, was born March 8, 1922, in New York. He attended Public School #4 and Haaron High School in New York, graduating from the latter in 1940. He also attended Brooklyn Polytechnic Institute for a short period in 1940, studying mechanical engineering. He

attended the Pratt Institute of Science for a short period in 1948, studying mechanical designing. During his early life, he worked in his father's shop. He was employed by Freeman Brothers, New York City, from June, 1940, to October, 1941. He was also employed by Peerless Laboratories in New York City from October, 1941, to March, 1943. He was inducted into the United States Army on April 5, 1943, and entered active duty at Fort Dix, New Jersey, on April 12, 1943. He was thereafter transferred to Army Service Forces Training Command, Mississippi Ordnance Plant, Flora, Mississippi. During July, 1944, he was transferred to the First Provisional Special Engineer Detachment Unit, Manhattan Engineer District, Oak Ridge, Tennessee, arriving there July 27, 1944. He departed from Oak Ridge on August 2, 1944, and joined the Second Provisional Engineer Detachment Unit at Santa Fe, New Mexico, on August 5, 1944. On February 28, 1946, he was transferred to Fort Bliss, Texas, and discharged from the Army on February 29, 1946. In 1947, Greenglass went into business with Julius Rosenberg and others. They formed a company known as the Pitt Machine Products Company, Incorporated. In August, 1949, Greenglass left the company because of poor financial conditions there. He thereafter became employed as a machinist by the Arma Corporation, Brooklyn, New York, which employment was ceased when he was arrested by the FBI in June, 1950.

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David Greenglass married Ruth Printz on November 29, 1942. His wife was born April 30, 1924, at New York City, and lived all her life in the same neighborhood in which Greenglass was raised. They have two children, Stephen, born August 8, 1946, and Barbara, born May 16, 1950.

SUBVERSIVE ACTIVITIES AND AFFILIATIONS

David Greenglass reportedly had come under the influence of his sister, Ethel, when he was about 12 years of age. At the time, Ethel was 19 years old and was being courted by Julius Rosenberg. At first David opposed the efforts of Ethel and Julius to convert him to Communism and disliked Julius, but after Julius bought David a chemistry set, the two became very friendly and Julius was able to influence David considerably. It was further learned that Julius Rosenberg continued to be a frequent visitor at the apartment occupied by David and Ethel until Julius married Ethel in 1939. During that time, David became extremely fond of Julius and was fully converted to Communist ideals expounded by Ethel and Julius. As a result, David joined the Young Communist League at the age of 14.

Ruth Greenglass, wife of David Greenglass, advised that her husband looked up to Julius with a certain degree of hero worship and that Julius influenced David to think along Communist lines by bringing Communist Party literature to David when the latter was 13 or 14 years old.

David Greenglass has stated that he was indoctrinated with Communist principles in his youth by Julius and Ethel Rosenberg and was a member of the Young Communist League in New York from 1936 to 1938. He continued his belief in Communism, but never joined the Communist Party. He claims to have become disillusioned with Communism when Tito of Yugoslavia was expelled from the Cominform. This incident, he claims, brought home to him that Communism was being used as a tool by the USSR for the purpose of world conquest instead of working toward a panacea.

Soon after her marriage to David Greenglass, Ruth Greenglass claims to have been converted to the principles of Communism by her husband. She was a member of a branch of the Young Communist League for about a year in 1943 and was president of the branch for about three weeks. She states she became disillusioned with Communism following World War II when it became apparent that the USSR had embarked on a program of world conquest (65-58236-646 pages 27 and 42 and serial 837)

MISCELLANEOUS

It is interesting to note that in checking the Army service record of David Greenglass, it was determined that the assignment of Greenglass to atomic energy work occurred under the following circumstances: On July 6, 1944, orders were sent to the Mississippi Ordnance Plant, where Greenglass was assigned, to transfer six soldiers, all named, to Oak Ridge, Tennessee, for assignment to the Manhattan Engineer District. Greenglass was not one of the soldiers named. By letter dated July 14, 1944, the Mississippi Ordnance Plant reported that one of the six men so

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named was AWOL and asked permission to substitute Greenglass for the AWOL soldier. Permission was granted and by special order dated July 24, 1944, Greenglass was transferred to Oak Ridge. (65-59028-serial 304)

But for the above incident, it is possible that Greenglass would not have been assigned to work involving research to produce an atomic bomb and would not have been a subject for espionage recruitment by Julius Rosenberg. It is further possible that the involvement of Julius Rosenberg in espionage might not have been detected.

Morton Sobell

Morton Sobell was born April 11, 1917, in New York City, the son of Russian-born immigrants. He married Helen Levitov Gurewitz at Arlington, Virginia, on March 10, 1945. His wife was previously married to Clarence Darrow Gurewitz. At the time of her divorce from Gurewitz on March 5, 1945, she was awarded custody of their daughter, Sydney Gurewitz, then six years of age. The Sobells have a second child, Mark Sobell, age 3.

Sobell attended Stuyvesant High School from February, 1931, to January, 1934. He thereafter entered the College of the City of New York where he was a classmate of Julius Rosenberg and Max Elitcher who will be mentioned hereinafter. Sobell graduated from the College of the City

of New York in June, 1938, with a bachelor's degree in electrical engineering. Subsequently he attended the University of Michigan Graduate School in 1941 and 1942, from which institution he received a master's degree in electrical engineering.

Sobell was employed during the summers of 1934 through 1938 as a maintenance man at Camp Unity, Wingdale, New York, reportedly a Communist-controlled camp. On January 27, 1939, he secured the position of junior electrical engineer with the Bureau of Naval Ordnance, Washington, D. C. He was promoted to the position of assistant electrical engineer. He resigned from this position in October, 1940, to further his studies at the University of Michigan. After obtaining his master's degree, he secured employment on June 15, 1942, as a test engineer with the General Electric Company, Schenectady, New York. In the early stages of his employment with this company, he worked as an engineer in the Marine and Aeronautics Division. At the time of his resignation from this position on June 13, 1947, he was assigned to meteorological radar work in the Electrical Control Section. He had access to classified material, including that on fire control radar. After resigning from this company, he secured employment as an electrical engineer with the Reeves Instrument Company, New York City, where he had access to secret data. He remained in this position until June 16, 1950, when he failed to appear for work. It is noted that this was the date

David Greenglass was arrested by the FBI. On June 22, 1950, Sobell and his family fled to Mexico. He was thereafter located in Mexico City and on August 18, 1950, was taken into custody by Bureau agents at Laredo, Texas, after his deportation from Mexico by the Mexican authorities.

SUBVERSIVE ACTIVITIES AND AFFILIATIONS

Max Elitcher, an admitted Communist, advised that during the period he roomed with Morton Sobell in Washington, D. C., he was induced by Sobell to join the Communist Party. He stated that this occurred in 1939 and that Sobell had informed him that he, himself, was a member of the Communist Party.

During this same period Sobell was reported to have been active in the American Peace Mobilization and the American Youth Congress, both of which organizations have been cited by the Attorney General as coming within the purview of Executive Order 10450. It was learned that Sobell signed a Communist Party petition for Isidore Begun, Communist Party candidate, on August 8, 1939.

It was ascertained that Sobell appeared on the active indices of the American Peace Mobilization and was listed on the indices of the American Youth Congress as a delegate to that body from the Washington Committee for Democratic Action.

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A resident at an apartment building located at 225 N Street, N. W., Washington, D. C., reported that Sobell and Max Elitcher were among the tenants of the building who attended meetings in the apartment of one of the tenants during 1940 and 1941. She was of the opinion that these were Communist meetings.

The New York Office located a Communist Party nominating petition which was filed in the name of one Morton Sobell, 646 St. Ann's Avenue, Bronx, New York. The signature of this petition was identified by the FBI Laboratory as being in the handwriting of Morton Sobell.

FLIGHT OF MORTON SOBELL TO MEXICO

A check at the Reeves Instrument Company reflected that Sobell failed to report for work after June 16, 1950. The company received a letter from Sobell on or about July 3, 1950, wherein Sobell advised that he needed a rest and was going to take a few weeks off to recuperate.

A neighborhood investigation by the FBI developed that Sobell, his wife and their two children were last seen at their home on June 22, 1950, and that they had left hurriedly without advising anyone of their intended departure.

Through American Airlines, La Guardia Field, it was determined that Sobell, his wife, Helen, his stepdaughter, Sydney, and his son, Mark, had departed for Mexico City on flight No. 157, leaving La Guardia Field at 9:45 p.m., Eastern Standard Time on June 22, 1950. It was further determined that round-trip excursion tickets for transportation from New York City to Mexico and return were purchased on June 21, 1950, in the name of Morton Sobell.

Further investigation of Sobell's flight to Mexico reflected that Sobell had communicated through the mails with relatives through the utilization of one William Danziger of New York City as a mail drop. Danziger was interviewed and reluctantly admitted receiving letters from Sobell with instructions to forward these letters to Sobell's relatives. This admission was made by Danziger after he was advised that the FBI Laboratory

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identified handwriting on the envelopes of these letters which were used in forwarding them to Sobell's relatives as being in Danziger's handwriting.

In August, 1950, the Mexican authorities took Sobell into custody and deported him as an undesirable alien. On the early morning of August 18, 1950, FBI Agents apprehended Sobell at the International Bridge, Laredo, Texas.

PROSECUTIVE ACTION

Armed with the information supplied by Harry Gold the FBI moved swiftly to bring before the bar of justice those responsible for stealing secrets of the United States Government.

On June 16, 1950, the Criminal Division of the Department was advised of the admissions of David Greenglass and authorized the filing of a complaint in Albuquerque, New Mexico, charging Greenglass with espionage conspiracy to violate Section 34, Title 50, United States Code. On the same date, Greenglass was arraigned before a United States Commissioner, Edward W. McDonald, of the Southern District of New York and was remanded to the custody of the United States Marshal in default of $100,000 bail.

On July 6, 1950, Greenglass was indicted by a Federal Grand Jury at Santa Fe, New Mexico. He was charged with espionage conspiracy.

On July 17, 1950, the Criminal Division of the Department authorized the filing of a complaint charging Julius Rosenberg with espionage conspiracy. Rosenberg was arrested at his home, 10 Monroe Street, Knickerbocker Village, New York City, on the same date and arraigned that evening before United States District Judge John McGohey of the Southern District of New York. Rosenberg was represented by his attorney, Emanuel H. Bloch. Rosenberg was remanded to the custody of the United States Marshal in default of $100,000 bail for further hearing.

On August 3, 1950, Irving Saypol, United States Attorney, Southern District of New York, authorized the filing of a sealed complaint against Morton Sobell, charging Sobell with espionage conspiracy.

On August 7, 1950, Ethel Rosenberg appeared before a Federal Grand Jury in the Southern District of New York pursuant to a subpoena.

On August 11, 1950, Mr. Saypol authorized the filing of a complaint against Ethel Rosenberg, charging her with espionage conspiracy. Ethel Rosenberg was taken into custody on the same date by Bureau Agents. Later, on the afternoon of August 11, 1950, she was arraigned before United States Commissioner McDonald of the Southern District of New York and remanded to the custody of the United States Marshal in default of $100,000 bail for further hearing.

On August 17, 1950, a Federal Grand Jury in the Southern District of New York returned an indictment charging Julius Rosenberg, Ethel Rosenberg and Anatoli Yakovlev with violation of Section 34, Title 50, United States Code. This indictment alleged eleven overt acts.

On August 18, 1950, Morton Sobell was taken into custody by Bureau agents in Laredo, Texas, after his deportation by Mexican authorities. He was arraigned on the same date before United States Commissioner Frank Y. Hill of the Southern District of Texas. He waived removal to New York and was remanded to the custody of the United States Marshal in default of $100,000 bail. He was thereafter returned to New York by the United States Marshal on August 23, 1950.

On August 23, 1950, Julius and Ethel Rosenberg were arraigned before United States District Judge T. Hoyt Davis of the Southern District of New York. They were represented by their counsel, Emanuel H. Bloch, and a plea of not guilty was entered by both. Bail in the amount of $100,000 was continued for each of the Rosenbergs.

On August 24, 1950, Morton Sobell was arraigned before United States Commissioner McDonald in the Southern District of New York and his hearing was adjourned. Bail of $100,000 was continued.

On September 18, 1950, Sobell again appeared before the United States Commissioner for a hearing which was adjourned in

order that the Government could complete presenting its case to a Federal Grand Jury.

On October 10, 1950, a superseding indictment was returned by a Federal Grand Jury in the Southern District of New York charging Morton Sobell, Ethel Rosenberg, Julius Rosenberg, David Greenglass and Anatoli Yakovlev with conspiracy to violate the Espionage Statutes.

On October 17, 1950, Julius and Ethel Rosenberg pled not guilty to the indictment of October 10, 1950, before United States District Judge William Bondy of the Southern District of New York. Bail of $100,000 was continued for Julius Rosenberg and bail of Ethel Rosenberg was reduced to $50,000 by Judge Bondy. The Rosenbergs were remanded to the custody of the United States Marshal in default of bail.

On October 18, 1950, David Greenglass pled guilty to the superseding indictment of October 10, 1950. The plea of Greenglass was accepted by Judge Bondy and bail of $100,000 was continued pending his sentencing.

On December 5, 1950, Morton Sobell pled not guilty to the superseding indictment of October 10, 1950. His plea was accepted by United States District Judge Sylvester Ryan of the Southern District of New York and Sobell's bail was continued in the sum of $100,000.

On January 31, 1951, a Federal Grand Jury in the Southern

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District of New York handed down a second superseding indictment charging Julius Rosenberg, Ethel Rosenberg, Anatoli Yakovelev, Morton Sobell, and David Greenglass with conspiracy to commit espionage between June 6, 1944, and June 16, 1950. This indictment was similar in all respects to the previous superseding indictment with the exception that it changed the beginning of the conspiracy from November, 1944, to June, 1944.

This indictment was returned under Section 34, Title 50, of the United States Code. The Grand Jury charged as follows:

"1. On or about June 6, 1944, up to and including June 16, 1950, at the Southern District of New York, and elsewhere, Julius Rosenberg, Ethel Rosenberg, Anatoli A. Yakovlev, also known as "John," David Greenglass and Morton Sobell, the defendants herein, did, the United States of America then and there being at war, conspire, combine, confederate and agree with each other and with Harry Gold and Ruth Greenglass, named as co-conspirators but not as defendants, and with divers other persons presently to the Grand Jury unknown, to violate subsection (a) of Section 32, Title 50, United States Code, in that they did conspire, combine, confederate and agree, with intent and reason to believe that it would be used to the advantage of a foreign nation, to wit, the Union of Soviet Socialist Republics, to communicate, deliver and transmit to a foreign government, to wit, the Union of Soviet Socialist Republics, and representatives and agents thereof,

directly and indirectly, documents, writings, sketches, notes and information relating to the National Defense of the United States of America.

OVERT ACTS

"1. In pursuance of said conspiracy and to effect the objects thereof, in the District of Columbia, on or about June 6, 1944, the defendant Julius Rosenberg visited a building at 247 Delaware Avenue, Washington, D. C.

"2. And further in pursuance of said conspiracy and to effect the objects thereof, in the Southern District of New York, on or about November 15, 1944, the defendants Julius Rosenberg and Ethel Rosenberg conferred with Ruth Greenglass.

"3. And further in pursuance of said conspiracy and to effect the objects thereof, in the Southern District of New York, on or about November 20, 1944, the defendant Julius Rosenberg gave Ruth Greenglass a sum of money.

"4. And further in pursuance of said conspiracy and to effect the objects thereof, in the Southern District of New York, on or about November 20, 1944, Ruth Greenglass boarded a train for New Mexico.

"5. And further in pursuance of said conspiracy and to effect the objects thereof, in the Southern District of New York, on or about December 10, 1944, the defendant Julius Rosenberg went to 266 Stanton Street, New York City.

"6. And further in pursuance of said conspiracy and to effect the objects thereof, in the Southern District of New York, on or about December 10, 1944, the defendant Julius Rosenberg received from Ruth Greenglass a paper containing written information.

"7. And further in pursuance of said conspiracy and to effect the objects thereof, in the Southern District of New York, on or about January 5, 1945, the defendants Julius Rosenberg and Ethel Rosenberg conferred with the defendant David Greenglass and Ruth Greenglass.

"8. And further in pursuance of said conspiracy and to effect the objects thereof, in the Southern District of New York, on or about January 5, 1945, the defendant Julius Rosenberg gave Ruth Greenglass a portion of the side of a torn cardboard "Jello" box.

"9. And further in pursuance of said conspiracy and to effect the objects thereof, in the Southern District of New York, on or about January 10, 1945, the defendant Julius Rosenberg introduced the defendant David Greenglass to a man on First Avenue, New York City.

"10. And further in pursuance of said conspiracy and to effect the objects thereof, in the Southern District of New York, on or about January 12, 1945, the defendant Julius Rosenberg conferred with the defendant David Greenglass.

"11. And further in pursuance of said conspiracy and to effect the objects thereof, in the Southern District of New York, on or about January 12, 1945, the defendant Julius Rosenberg received from the defendant David Greenglass a paper containing sketches of experiments conducted at the Los Alamos Project.

"12. And further in pursuance of said conspiracy and to effect the objects thereof, in the Southern District of New York, on or about January 14, 1945, the defendant David Greenglass boarded a train for New Mexico."

(Section 34, Title 50, United States Code).

On February 2, 1951, Julius and Ethel Rosenberg and Morton Sobell entered pleas of not guilty before United States District Judge Henry W. Goddard of the Southern District of New York. David Greenglass entered a plea of guilty to the above indictment and withdrew his plea of guilty to the previous superseding indictment. Judge Goddard directed that the sentencing of Greenglass be postponed until the termination of the trial.

On February 5, 1951, Morton Sobell made an application to United States District Judge Vincent Leibell of the Southern District of New York, for a Writ of Habeas Corpus based on the allegation that the indictment of January 31, 1951, was vague and that the incrimination of Sobell was a violation of his constitutional rights. Judge Leibell denied the application on the grounds that it was improper.

THE ROSENBERG-SOBELL ESPIONAGE CONSPIRACY TRIAL

On March 6, 1951, the trial of this case on the superseding indictment of January 31, 1951, commenced before U. S. District Judge Irving R. Kaufman in the Southern District of New York. At the outset of the case United States Attorney Irving H. Saypol moved to sever Anatoli A. Yakovlev from the trial, which motion was granted. The selection of a jury of twelve with two alternates was completed on March 7, 1951. Counsel for the defendants made motions to dismiss the indictment on various grounds which were denied by the Court. Mr. Saypol then made a motion to sever David Greenglass from the indictment because Greenglass had already pleaded guilty. This motion was granted by the Court.

Mr. Saypol opened the Government's case and addressed the jury. He informed the jury that it was their duty to protect the rights of each individual and of all people by proceeding diligently against those who operated against the Government. He pointed out that the Grand Jury had charged the defendants with conspiracy to commit espionage on behalf of a foreign power, and that this charge was one of unusual significance. He defined "conspiracy" and stated it required proof of only one overt act of any one of the conspirators. He stated that the evidence in this case would come from some witnesses who participated with the defendants and from some who were picked

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by the defendants to be their associates and partners in crime. He stated he intended to prove that the loyalty of the defendants was not to the United States but to Communism in this country and throughout the world. At this point Bloch objected to the mention of Communism, stating that Communism was not the offense charged in the indictment. Judge Kaufman ruled that he would consider the introduction of matters relating to Communism during the trial as a motive for the unlawful acts charged at such times as it became necessary for him to do so in the trial. Saypol thereafter continued and stated that loyalty to Communism arose from the defendants' devotion to Russia. He stated that they delivered to Russia information and weapons which Russia could use to destroy us. He stated that Julius Rosenberg and Morton Sobell were classmates at college where both had a love of Communism and Russia which led them into a Soviet espionage ring. He related that Rosenberg sought out this ring and then devoted himself to the service of Russia at the expense of disloyalty to the United States. He revealed that Rosenberg reached into the U. S. Army and Navy and National Defense plants to get information for Russia, and that all of the defendants were ever on the lookout to recruit others for Soviet Russia. He stated that they persuaded David Greenglass to reveal secrets while in the Army at Los Alamos, and that at the request of the Rosenbergs, Greenglass stole and turned over to Harry Gold sketches

and information concerning the atom bomb.

FBI'S VIGILANCE BREAKS THROUGH THE SHROUD OF DARKNESS

Continuing his address to the jury, Mr. Saypol pointed out that the vigilant FBI broke through the shroud of darkness and collected the evidence to bring the defendants to the bar of justice. He went on to relate that after the arrests of Klaus Fuchs, Harry Gold, and David Greenglass, the Soviet agents put into effect a plan for others to flee the United States. He stated that Sobell actually succeeded in leaving the United States.

The defense attorneys made a motion for a mistrial, claiming that the statements of Saypol were inflammatory and introduced Communism which was not relevant to this case. The Court denied this motion.

Emanuel Bloch in his statement to the jury pointed out that Julius Rosenberg had asserted his innocence. He requested the jury to render a true verdict and not to be influenced by hysteria or violence. He claimed that the trial arose in a rather tense, international atmosphere and requested the jurors to keep their minds open. He suggested that the jury examine the truthfulness of the witnesses, in particular the testimony of the Greenglasses and Harry Gold. He pointed out that the Greenglasses were related to the Rosenbergs and asked the jury not to be swayed by emotion, sympathy, or passion. Alexander

Bloch, attorney for Ethel Rosenberg, in his opening statement, requested the jurors not to condemn her merely because David Greenglass was a confessed conspirator. He stated she had protested her innocence from the beginning and that she was dragged into the case by the machinations of the Greenglasses, who wished to lighten their burdens.

Harold Phillips, attorney for Sobell, in his address to the jury, stated that Saypol had made "the thing look blacker than it is." Phillips stated he was not trying to minimize the offense but just did not want to "maximize it." He stated that the talk of Communism as a motive in this case was absurd because Harry Gold, a main Government witness, never was a Communist. He asked the jury not to let religious beliefs or other beliefs sway them. (65-58236-826)

A total of twenty-two witnesses were presented by the Government. The testimony of some of the main witnesses is being summarized hereinafter.

ESPIONAGE ACTIVITIES OF THE ROSENBERGS

Some of the espionage activities of the Rosenbergs with their ramifications were brought out at the trial of the atom spies. The testimony of Greenglass revealed the following information: Greenglass entered the United States Army in April, 1943, and was assigned to the Ordnance School, Aberdeen, Maryland, in July, 1943. In July, 1944, he was assigned to the Manhattan Project, Oak Ridge, Tennessee. He did not know at that time what the project was. He received security lectures about his duties and was told it was a secret project. Two weeks later he was assigned to Los Alamos, New Mexico, and reported there in August, 1944. He was again told that his work was secret.

In November, 1944, his wife, Ruth Greenglass, came to Albuquerque to visit him. Ruth Greenglass told him that Julius Rosenberg advised her that her husband was working on the atom bomb. Greenglass stated he did not know that he was working on such a project. He stated that he worked in a group at Los Alamos under Dr. Kistiakowsky of Harvard University. He described to the Court the duties of his shop at Los Alamos. He received security instructions again, as well as a security regulation pamphlet marked "Restricted." This pamphlet was introduced into evidence. He stated that while at Los Alamos, he learned the identity of Dr. Oppenheimer, Neils Bohr, whose

Tolson
Ladd
Nichols
Belmont
Clegg
Glavin
Harbo
Rosen
Tracy
Gearty
Mohr
Winterrowd
Tele. Room
Holloman
Sizoo
Miss Gandy

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cover name was Baker, Dr. Urey and Dr. Koski. Greenglass stated he performed work as an apprentice preparing lens molds which were intended for Dr. Koski's experiments, and that he usually worked from sketches supplied by scientists.

Greenglass testified that his sister, Ethel, was married in 1939, and that he knew Julius Rosenberg before the marriage. He stated that Ethel and Julius used to speak to him about the merits of the Russian Government.

Greenglass stated that his wife, Ruth, came to visit him at Los Alamos on November 29, 1944. Ruth told David that Julius Rosenberg had invited her to dinner at the Rosenberg home, 10 Monroe Street, New York City. At this dinner Ethel told Ruth that she must have noticed that Ethel had not been engaging in Communist activities. Ethel also told Ruth that they were not buying the "Daily Worker" any more or attending club meetings because Julius finally was doing what he always wanted to do, namely giving information to the Soviet Union. Ethel told Ruth that David was working on the atom bomb project at Los Alamos, and they wanted him to give information concerning the bomb. Ruth told the Rosenbergs that she didn't think it was a good idea and declined to convey their requests to David. Ethel and Julius then told Ruth that she should at least tell David about it and see if he would help. In this conversation Julius pointed out to Ruth that Russia was an ally and deserved

the information, and that Russia was not getting all the information that was due her. David at first refused to have anything to do with the request of the Rosenbergs but on the next day he agreed to furnish any available data. Ruth then asked David specific questions about the Manhattan Project, such as the general layout of it and the identity of the scientists working there. David supplied her that information. He identified Dr. Oppenheimer, Dr. Kistiakowsky, and Dr. Bohr to Ruth. He also gave her an estimate of the number of people in the technical area at Los Alamos.

In January, 1945, David arrived in New York City on furlough. About two days later Julius Rosenberg came to David's apartment and asked David for information, "Anything of value on the A-Bomb." He requested David to write up the information and stated he would pick it up the following morning. He asked David what he was doing at Los Alamos, and David stated he was working on lens molds. At the time Rosenberg described to David what an atom bomb looked like. That evening Greenglass wrote up the information he had and prepared sketches of the lens mold with a description of how it was used in experiments. The next morning he gave this material to Rosenberg. *(65-58236-Serial 837) He also gave to Rosenberg a list of the scientists at Los Alamos and the names of possible recruits working there who might be sympathetic to Communism and possibly

furnish information to Russia. Rosenberg specifically requested a list of possible recruits. Greenglass had prepared copies of these sketches at the trial which were introduced into evidence over the objection of the defense. Greenglass further stated that at the time he turned this material over to Rosenberg, Ruth Greenglass remarked that David's handwriting was bad and would need interpretation. Rosenberg answered that it was nothing to worry about because Ethel, his wife, would retype the information. A day or two later David and his wife went to the Rosenberg apartment for dinner. When they arrived there, they were introduced to a friend of the Rosenbergs who was already there. David had never met this friend before but had known her husband for some years. In the early part of the evening all of them engaged in social conversation. This friend then left. After she left, Julius told the Greenglasses that this person was a woman who he thought would come to see David to receive information on the atom bomb. They discussed a tentative plan to the effect that Ruth Greenglass would move to Albuquerque, and this woman would come to see her. They also discussed a plan about Ruth and this person meeting in a movie house in Denver, Colorado, where they would exchange purses. Ruth's purse would have in it the information from David concerning Los Alamos. Rosenberg told David that he had this friend come to his home that evening

to meet the Greenglasses in order that they would know one another. During this discussion the point was raised that some one else might come for the material, and there was a discussion as to how an identification might be effected. Julius, Ruth, and Ethel then went into the kitchen. David stayed in the living room. In about five minutes they came out of the kitchen. Ruth held in her hand a piece of the side of a jello box which was cut in a particular way. Julius held the other piece in his hand. It was agreed that Ruth would use the jello box side to identify the person who would come to see her. They then discarded the idea of having any meeting with a contact in Denver. David made the suggestion that the meeting be held in front of a Safeway Store in Albuquerque. The date of the meeting was left in abeyance depending upon the time that Ruth would depart for Albuquerque. Julius Rosenberg said that this was a good idea. David further testified that both Julius and Ethel Rosenberg told Ruth not to worry about money. During this visit Ruth mentioned to Ethel that Ethel looked tired. Ethel said she was tired, "between the child" and "typing up her notes" Julius had brought her "in this work." Ethel further stated she did not mind it so long as Julius was doing what he liked to do. Also, during this visit Julius said he would like to have David meet a Russian with whom

he could discuss the lens David was working on. A few nights later an appointment was made by Julius for David to meet a Russian on First Avenue between 42nd and 59th Streets, New York City. David drove up to the appointed meeting place and parked the car near a saloon in a dark Street. Julius came up to the car, looked in, and then went away. He came back with a man who got into David's car. Julius stayed on the street. David then drove away with the unknown man. The man asked David about high explosive lenses, a formula for the curve of the lens, the high explosives used, and the means of detonation. After driving around for a while, David returned to the original place of meeting and let the man out. This man was then joined by Rosenberg who was standing on the street, and David observed them leaving together.

In the Spring of 1945, Ruth Greenglass came to Albuquerque to live. She finally rented an apartment at 209 North High Street, Albuquerque. David would visit this apartment on weekends. On the first Sunday of June, 1945, a man subsequently identified by David as Harry Gold came to visit him. Gold asked if David's name was Greenglass, and David said "Yes." Gold then said "Julius sent me." David went to his wife's wallet and took out the piece of the jello box and compared it with the piece offered by Gold. They matched. Gold asked David if he had any information. David said he did but would have to write it up.

Gold then left, stating he would be back. David immediately started to work on a report and made sketches of the lens mold experiments, wrote up descriptive material regarding them, and prepared a list of possible recruits for espionage. Later that day Gold returned and David gave him the reports. Gold then gave David an envelope and left. David and Ruth opened the envelope which contained $500. David turned the money over to Ruth. The Court accepted copies of the sketches prepared by Greenglass at the time of the trial to describe the information Greenglass had turned over to Gold. These sketches were admitted into evidence. (65-58236-Serial 822)

In September, 1945, David Greenglass returned to New York City with his wife, Ruth, on furlough. The next morning Julius Rosenberg came to the Greenglass apartment and wanted to know what David had for him. David informed Julius that he had obtained a pretty good description of the atom bomb. At this point in his testimony the Government prosecutor reverted to Rosenberg's contact with David in January, 1945. David reiterated that in January, 1945, Rosenberg gave him a description of an atom bomb which David later learned had been subsequently dropped on Hiroshima. David stated that Julius gave him this information in order that David would know what information to look for. At that time Rosenberg told David that the atom bomb

consisted of fissionable material at each end of a tube, and that this material was brought together under great pressure to cause a "nuclear explosion."

Greenglass continued to relate what transpired in September, 1945. At Julius' request, he drew up a sketch of the atom bomb, prepared descriptive material on it, and drew up a list of scientists and possible recruits for Soviet espionage. He thereafter delivered this material to the Rosenberg apartment. He stated that at the time he turned this material over to Rosenberg, Ethel and Ruth were present.

Greenglass at the trial prepared a sketch of a cross section of an atom bomb to indicate what he gave to Rosenberg, and this was made Government exhibit #8. At this point Emanuel Bloch asked the Court to impound the sketch of the bomb so that no one but the Court, jury, defendants, and attorneys would be able to see it. Bloch stated that he was making this request in the interest of national security. The Government prosecutor remarked to the Court that this was an unusual request to come from these defendants. Judge Kaufman ordered the sketch impounded, pointing out that inasmuch as the defense requested it, the defense would have no grounds for objection to the impounding in case of an appeal.

Greenglass then continued his testimony and testified as to the make-up of the atom bomb, using the sketch referred

to above. He further stated that he told Rosenberg how the bomb was set off by a barometric pressure device. Rosenberg told him the information was very good and it should be typed-up immediately. The information was then prepared on a portable typewriter in the Rosenberg apartment by Ethel. While Ethel was typing the report, Julius mentioned to David that he (Julius) had stolen a proximity fuse while working at the Emerson Radio Corporation and turned it over to the Russians. After the report was typed, the handwritten notes were burned in a frying pan by Julius and flushed down a drain. Julius gave David $200. Julius discussed with David the idea of David's staying at Los Alamos after he was discharged from the army so that he could continue to get information. David declined. Julius also attempted to persuade David to go to college partly under the G.I. Bill of Rights and partly on Russian funds. He urged David to become a student in nuclear physics at the Massachusetts Institute of Technology or the University of Chicago in order to make contacts in this school and obtain information for the Russians.

From 1946 to 1949, David was in business with Julius Rosenberg. During this period Julius told David that he had people going to school; that he had people in up-State New York and in Ohio giving him information for the Russians. Julius also mentioned one such place was the General Electric Company in Schenectady, New York. Rosenberg mentioned to Greenglass on one occasion that he had seen one of his contacts

at Cleveland, Ohio.

Late in 1947, Julius told David about a sky platform project and mentioned he had received this information from "one of the boys." Rosenberg described the sky platform as a large vessel which could be suspended at a point in space where the gravity was low, and that the vessel would travel around the earth like a satellite. Rosenberg also advised David that he had a way of communicating with the Russians by putting material or messages in the alcove of a theater. Julius also mentioned he had received from one of his contacts the mathematics relating to atomic energy for airplanes. (65-58236-820)

Greenglass testified that Rosenberg claimed to have received a citation, together with a watch, from the Russians Greenglass also testified that Rosenberg claimed to have received a console table from the Russians which he used for photography purposes.

In February, 1950, a few days after the news of the arrest of Dr. Fuchs in England was published, Julius came to David's home and asked David to go for a walk. During this walk Rosenberg spoke of Fuchs and then mentioned that the man who had come to see David in Albuquerque was also a contact of Fuchs. Julius stated that David would have to leave the country. David answered that he needed money, and Rosenberg said he would get the money from the Russians. Rosenberg then mentioned that

Joel Barr, who was a member of the espionage ring, had left the country. In April, 1950, Rosenberg again told David he would have to leave the country. About May 23, 1950, Rosenberg came to the Greenglass apartment with the "New York Herald Tribune" which had a picture of Harry Gold and the story of Gold's arrest. Rosenberg said, "This is the man who saw you in Albuquerque." Julius gave David $1,000 and stated he would come back later with $6,000 more for David to use in leaving the country. Julius stated that David would have to get a Mexican tourist card. Julius also mentioned that he went to see a doctor who told him that a doctor's letter stating David was inoculated for smallpox would also be needed, as well as passport photos. Rosenberg then gave David a form letter and instructions to memorize for use in Mexico City. Upon David's arrival in Mexico City, he was to send this letter to the Soviet Embassy in Mexico City and sign it "I. Jackson." Three days after he sent this letter, David was to go to the Plaz De La Colon at 5 P.M. and look at the Statue of Columbus there. David was to carry in his hand a guide to the city with his middle finger between the pages of the guide. He was to wait until some man came up to him. David would then state, "That is a magnificent statue" and advise the man that he (David) was from Oklahoma. The man would then answer, "Oh, there are much more beautiful statues in Paris." The man would give David a passport and additional money. David was to go to Vera Cruz and then go to Sweden or Switzerland. If

he went to Sweden, David was to send the same type of letter to the Soviet Ambassador or his secretary and sign the letter "I. Jackson." Three days later, David was to go to the Statue of Linnaeus in Stockholm at 5 P.M. A man would approach David and David would mention that the statue was beautiful. The man would answer, "There are much more beautiful ones in Paris." The man would then give David the means of transportation to Czechoslovaki Upon arrival in Czechoslovakia, David was to write to the Soviet Ambassador advising him of his presence there.

Julius further advised David that he himself would have to leave the country because he had known Jacob Golos, and that Elizabeth Bentley probably knew him also. Sometime later David and his family went to a photography shop and had six sets of passport photos taken. On Memorial Day Rosenberg visited the Greenglass apartment and David gave him five sets of these photos. Sometime later Rosenberg again visited David and gave David $4,000 in $10 and $20 bills wrapped in brown paper. He requested David to go for a walk with him and repeat the memorized instructions. David gave the $4,000 to his brother-in-law, Louis Abel, for safekeeping.

In another conversation with Rosenberg shortly prior to David's arrest, Rosenberg asked David if he was being followed, and David said he believed he was. (65-58236-836)

On cross-examination, David testified he used the $1,000 he received from Julius to pay household debts and the $4,000 to pay his lawyer, O. John Rogge, for representing him. (65-58236-846, 850)

WITNESSES CORROBORATING GREENGLASS STORY

Ruth Greenglass

Ruth Greenglass, wife of David Greenglass, also testified at the trial and in addition to corroborating her husband's testimony, she gave the following information:

She stated that prior to her departure for New Mexico in November, 1944, she had a conversation with Julius and Ethel Rosenberg at the Rosenberg apartment in New York City. Julius told her that he and Ethel had discontinued their open affiliation with the Communist Party because he had always wanted to do more than just be a Communist Party Member. Julius informed her that after two years he had succeeded in reaching the Russians and was now doing the work he wanted to do. He requested her to enlist David's help in furnishing information to him for the Russians about Los Alamos. Ruth declined at first but was urged by Ethel to approach David. Julius then gave her instructions for David as to the particular type of information he wanted. A few days later Julius gave Ruth $150 to defray the expenses of her trip to New Mexico.

On her return to New York in December, 1944, after visiting David, she was visited at her apartment by Julius, at

which time she informed him of David's decision to cooperate. She furnished to Julius orally the information given to her by David and also wrote it down for Julius. She informed him of David's impending furlough. Prior to her departure for Albuquerque in February of 1945, Julius visited her at her apartment where she was living with her sister, Dorothy Printz. Julius requested Dorothy Printz to leave the room and after she did so he furnished Ruth instructions concerning a meeting with an espionage contact in Albuquerque. (65-58236-850, 851, 853)

Harry Gold

Harry Gold testified in summary as follows: Gold was engaged in Soviet espionage from 1935 up to the time of his arrest in May, 1950. From 1944 to 1946 his espionage superior was a Russian known to him as "John." He identified a picture of Anatoli A. Yakovlev, former Soviet Vice-Consul in New York City as "John." Yakovlev's picture was admitted into evidence.

In the middle of June, 1944, Gold had an espionage meeting with Dr. Klaus Fuchs in Woodside, Queens. As a result of this meeting, Gold wrote a report and turned it over to Yakovlev about a week or so later. Gold told Yakovlev at this meeting that at Gold's next meeting with Fuchs, the latter would give Gold information relating to the application of nuclear fission to the production of military weapons.

In the latter part of 1944, Gold met Fuchs in the vicinity of Borough Hall, Brooklyn and received a package from Fuchs which Gold later turned over to Yakovlev.

Gold's next meeting with Fuchs was in the middle of July, 1944, in the vicinity of 96th Street and Central Park West, New York City. He conversed with Fuchs for about an hour and a half. About a week or two later, Gold turned over to Yakovlev a report he had written concerning this conversation. Gold told Yakovlev that Fuchs had given further information concerning the work of a joint American and British project to produce an atom bomb. Subsequently, Gold had a regularly scheduled series of meetings with Yakovlev, who instructed Gold how to continue his contacts with Fuchs. In this connection, Gold stated that it was his duty to obtain information from a number of American espionage sources and give it to Yakovlev. He pointed out he effected his meetings with these sources by using recognition signals such as an object or a piece of paper and a code phrase in the form of a greeting. Gold related that he always used a false name. He also stated that his sources lived in cities other than Philadelphia (Gold's home city). Gold also advised that he paid money to these sources which he had in turn received from Yakovlev. (65-58236-853)

Early in January, 1945, Gold met Fuchs in Cambridge, Massachusetts, and received a package of papers which he later turned over to Yakovlev in New York City. He told Yakovlev that

Fuchs had mentioned that a lens was being worked on in connection with the atom bomb. His next meeting with Fuchs was to be in Santa Fe on the first Saturday of June, 1945.

Early in February, 1945, Gold met Yakovlev on Twenty-third Street between Ninth and Tenth Avenue in New York City. At this meeting, Yakovlev indicated the interest of the Russians in the plans mentioned by Fuchs.

On the last Saturday in May of 1945, Gold met Yakovlev inside Volk's Restaurant on Third Avenue, New York City, to discuss Gold's next meeting with Fuchs in Santa Fe. Yakovlev instructed Gold to take on an additional mission in Albuquerque, New Mexico. Gold protested, but Yakovlev said it was vital, pointing out that a woman was supposed to go but was unable to make the trip. Yakovlev gave Gold an onionskin paper on which was typed the name Greenglass, an address on High Street, Albuquerque, and the recognition signal, "I am from Julius." Yakovlev also gave Gold a piece of cardboard cut from a food package. Yakovlev stated that Greenglass in Albuquerque would have the matching piece. Yakovlev also stated that if Greenglass was not in, Greenglass' wife would give Gold the information. Yakovlev then gave Gold $500 in an envelope to turn over to Greenglass. Yakovlev instructed Gold to follow a devious route to Santa Fe and Albuquerque in order to minimize the danger of a surveillance.

Gold arrived in Santa Fe on Saturday, June 2, 1945, and met Fuchs, who gave Gold a package of papers. Gold left Santa Fe on the afternoon of June 2nd by bus and arrived in Albuquerque that evening. He went to the High Street address and found out that Greenglass and his wife were not in. Gold stayed at a rooming house overnight. The next day, a Sunday, he went to the High Street address and knocked on the door. David Greenglass opened the door. Gold said, "Mr. Greenglass." David answered, "Yes." Gold then said, "I come from Julius" and showed Greenglass the piece of cardboard which Yakovlev had given him. Greenglass requested Gold to come into his apartment. Greenglass then took a piece of cardboard from a woman's handbag and compared it with the piece Gold had given him. The pieces matched. Gold introduced himself to Mr. and Mrs. Greenglass as "Dave from Pittsburgh." Greenglass told Gold that the visit was a surprise and that it would take several hours to prepare the A-bomb material for Gold. David then started to tell Gold about possible recruits at Los Alamos but Gold cut him short and pointed out to David that it was very hazardous and that David should be circumspect in his behavior. Ruth Greenglass mentioned to Gold that she had spoken to Julius just before leaving New York to come to Albuquerque. Gold left and then returned later that afternoon. David gave Gold an envelope which he said contained information on the atom bomb. Gold turned over to David the envelope

containing the $500. David mentioned to Gold that he expected to get a furlough sometime around Christmas. He gave Gold the phone number of Julius in New York City in the event Gold wanted to reach Rosenberg. Gold told David that very likely he might return to Albuquerque in the early Fall of 1945 and might see David at that time. Gold left the apartment accompanied by David and Ruth, who walked with Gold to a point in front of a small building where he left them. Gold returned to New York City by train on June 5, 1945. While en route to New York City by train, he examined the material David had given him. He put David's material into a manila envelope and put the material he had received from Fuchs into another manila envelope. On the envelope containing Fuchs' material, Gold wrote "Doctor." On the envelope containing Greenglass' material Gold wrote "other." Gold observed that David's material consisted of three or four hand-written pages plus a couple of sketches with letters referred to in the text of the hand-written pages. The sketch appeared to be of some device. On the evening of June 5, 1945, Gold met Yakovlev along Metropolitan Avenue in Brooklyn and turned over to Yakovlev both envelopes.

About two weeks later Gold met Yakovlev on Main Street, Flushing, New York. Yakovlev told Gold that the information he had received from Gold on June 5 had been sent immediately to the Soviet Union and that the information he

had received from Greenglass was "extremely excellent and valuable." At this meeting, Gold related the details of his conversation with Fuchs and Greenglass. Fuchs had stated that tremendous progress had been made on the atom bomb and that the first explosion had been set for July, 1945.

In early July, 1945, Gold met Yakovlev in a sea food restaurant at the Broadway Station of the Astoria Elevated Line. Yakovlev said it was necessary to make arrangements for another Soviet agent to get in touch with Gold. At Yakovlev's instructions, Gold took a sheet of paper from his pocket which had the heading, "Arthur H. Thomas Company of Philadelphia." Gold tore off the top portion containing the name. On the reverse side of the sheet Gold wrote in diagonal fashion, "Directions to Paul Street." Yakovlev then tore the paper in an irregular fashion between the letters "p" and "a" of the word Paul. Yakovlev kept one portion and Gold kept the other. Yakovlev said that if Gold received two tickets in the mail without a letter, it would mean that on a definite number of days after the date on the ticket Gold was to go to the Broadway stop of the Astoria Line for a meeting which would take place in a restaurant-bar. Gold's Soviet contact would be standing at the bar and approach Gold and ask to be directed to Paul Street. They would then match the torn pieces of paper.

In August, 1945, Gold again met Yakovlev someplace in Brooklyn and was told by Yakovlev that he (Gold) was to

take a trip in September, 1945, to see Fuchs. Gold suggested to Yakovlev that since he was going to see Fuchs, he might as well go to Albuquerque to see David Greenglass also. Yakovlev answered that it was inadvisable because it might endanger Gold to have further contact with Greenglass. In September, 1945, Gold met Fuchs in Santa Fe, New Mexico. On his return to New York City on September 22, 1945, Gold went to a prearranged meeting place to see Yakovlev, who failed to appear. About ten days later, Gold met Yakovlev at Main Street, Flushing, and turned over to him a package he had received from Fuchs. He told Yakovlev that Fuchs had said there was no longer the open and free cooperation between the Americans and the British and that many departments were closed to Fuchs. Fuchs also stated he would have to return to England. Fuchs related to Gold that he was worried because the British had gotten to Kiel, Germany, ahead of the Russians and might discover a Gestapo dossier there on Fuchs which would reveal Fuchs' strong Communist ties and background. Fuchs and Gold also discussed the details of a plan whereby Fuchs could be contacted in England.

In November, 1945, Gold had another meeting with Yakovlev at which Gold mentioned that Greenglass would probably be coming home around Christmas for a furlough. Gold suggested that plans should be made to get in touch with Julius in an effort to obtain more information from Greenglass. Yakovlev told Gold to mind his own business.

In January, 1946, Gold again met with Yakovlev who told Gold about a man Yakovlev had tried to contact and found out the man was under continuous surveillance. Yakovlev used this story to point out to Gold that it was better to give up the contact than endanger their work.

In February, 1946, Gold went to the Earl Theater in the Bronx, New York, for a meeting with Yakovlev, but Yakovlev did not appear. Early in December, 1946, Gold received two tickets to a boxing match in New York City through the mails. The tickets were addressed to Gold's Philadelphia home incorrectly and too late for Gold to keep the appointment. At 5 p.m. on December 26, 1946, a telephone call was received at Abe Brothman Associates, Gold's place of employment. A voice asked for Harry Gold. When Gold identified himself, the voice asked if he had been all right. Gold answered that he had been fine. The voice then said, "This is John." Gold explained in his testimony that the question as to whether Gold had been all right was a code expression to give Gold a chance to indicate whether or not he had been under surveillance. Gold then arranged with John to meet an unidentified man in the Earl Theater that night. The man identified himself by handing Gold the torn piece of the sheet of paper containing the heading, "Arthur H. Thomas Company," which Gold and Yakovlev had previously prepared. Gold was requested by this man to proceed to 42nd Street and Third Avenue, New York City, to

meet Yakovlev. He met Yakovlev, who asked if Gold had had anything further from Fuchs. Yakovlev apologized for his ten months' absence and explained that he had to lie low. He stated he was glad Gold was working in New York and told Gold he should begin to plan for a mission to Paris, France, in March, 1947, where Gold would meet a physicist. He gave Gold an onionskin paper setting forth information for his proposed meeting in Paris. During the conversation with Yakovlev, Gold mentioned that he was working for Abe Brothman. Upon hearing this, Yakovlev became very excited and told Gold that Gold had almost ruined eleven years of work by working for Brothman because Brothman had been investigated in 1945. Yakovlev dashed out of the place of meeting stating that Gold would not see him in the United States again. (65-58236-892)

Gold was not cross-examined by defense counsel. (65-58236-864)

It is interesting to note that the Soviet intelligence services, in utilizing Gold to contact Greenglass, made a mistake in security which ultimately led to the uncovering of the Rosenberg spy ring, a network independent of the one Gold was involved in. From FBI knowledge of Soviet intelligence activities, it is known that the Soviets with their stress on security will not usually allow a member of one network to know of the existence of another network so that in the event one network is detected, the other will not be compromised. It will

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be recalled that Gold's protestation to Yakovlev about contacting Greenglass in Albuquerque went unheeded. The Soviets have undoubtedly found good reason to regret this error in judgment.

OTHER TESTIMONY PRESENTED AT THE TRIAL

Dr. George Bernhardt

As noted hereinbefore, David Greenglass testified as to the intention of Julius Rosenberg to flee from the United States in the Spring of 1950. He also testified concerning the instructions from Rosenberg for the flight of himself and his family.

Dr. Bernhardt testified that he was the Rosenberg's family physician. He stated that in May, 1950, he had a telephone conversation with Julius Rosenberg at which time Julius asked what injections were needed to go to Mexico. Dr. Bernhardt told him that he would need injections for typhoid and smallpox. Rosenberg advised the Doctor he was making this inquiry for a friend. The Doctor asked Rosenberg for sufficient notice so that he could get the serum and Julius answered he would notify the Doctor if the shots were necessary. (65-58236-Serial 864)

Ben Schneider

Schneider, a photographer located at 99 Park Row, New York City, testified that on a Saturday in May or June, 1950, he was visited by the Rosenbergs and their two children. He took photographs of the entire family which Julius said he

wanted of passport size. Julius told the photographer that he and his family intended to go to France. (65-58236-Serial 931)

Evelyn Cox

David and Ruth Greenglass testified that Julius Rosenberg had a console table which had been given to him by the Russians and which was used by him for photography work.

Evelyn Cox, a Negro maid who worked part time for the Rosenbergs, testified to seeing a new table in the living room of the Rosenberg apartment sometime in 1945. She described this table as a solid mahogany console table and as the most beautiful piece of furniture in the Rosenberg apartment. She asked Ethel Rosenberg where she had secured this table and Ethel replied that it had been given to her husband by a friend as a gift. A short time after first seeing this table, Mrs. Cox recalled she next observed it in a closet in the Rosenberg apartment. She asked Ethel why the table was in the closet and if she should place it back in the living room. Ethel told her to leave the table in the closet since it was too large for the living room. (65-58236-Serial 931)

Dorothy Printz

As reflected hereinbefore, Ruth Greenglass testified that prior to going to Albuquerque in February of 1945, she was contacted by Julius Rosenberg at her apartment. Dorothy Printz, her sister who was living with her, was requested by Julius to leave the room.

Dorothy Printz (Abel) testified that early in 1945 she resided with Ruth Greenglass in her apartment at 266 Stanton Street, New York City. She stated that she recalled in January or February of 1945, Julius Rosenberg came to the apartment and asked her to take a book and leave the room. Rosenberg stated he wished to speak to Ruth Greenglass privately.

Dr. Walter S. Koski (65-58236-853

Dr. Koski, a nuclear chemist, testified that from 1944 to 1947, he was associated with the atom bomb project at Los Alamos. He stated that his own work was related to implosion research. He stated it was his custom to make a design of a high explosive lens and then take it to the machine shop to have a mold of it made-up. His work was classified secret. The manufactured mold was later removed to a remote place at Los Alamos to shape explosives. This was done for safety reasons due to the heavy shocks of the high explosive. Koski stated that he worked on a flat type lens which was involved in the development of the atom bomb. He further stated that he would go to the machine shop and furnish sketches to the supervisor of the shop and determine what was needed. Koski recalled seeing David Greenglass in the machine shop. Koski identified the sketches prepared by David Greenglass at the trial and entered as exhibits reasonably accurate replicas of the type of sketches he, Koski, submitted to the machine shop. Koski stated that these specimens could have been of value to a foreign

power and would reveal to any expert what was going on at Los Alamos and indicate to the expert its relation to the atom bomb.

John A. Derry (65-58236-Serial 822)

Derry testified he was a U. S. Army officer from 1942 to 1946. He was assigned to the Manhattan Engineer District at Oak Ridge, Tennessee, in the capacity of a liaison officer. In that capacity he visited Los Alamos from time to time. He had occasion to see the atom bomb which was being constructed at Los Alamos. He was shown a cross section sketch of the atom bomb which was drawn by David Greenglass and introduced as an exhibit at the trial. Also, the court reporter read to Derry, David Greenglass' description of the atom bomb as given in the testimony of Greenglass. Derry testified that from the sketch and description he could perceive what the actual construction of the atom bomb was and that it was the type of atom bomb which was dropped on Nagasaki, Japan, in 1945. He also testified that to his knowledge no nation except Great Britain and Canada had this information about the atom bomb. (65-58236-Serial 874)

Louis Abel

Louis Abel, brother-in-law of David Greenglass, testified that about a week before Greenglass was arrested, he received from Greenglass a package wrapped in brown manila paper. A day or two later he looked into the package and observed it contained money. He hid the package in a hassock in his home for safekeeping. At about 2:00 A.M. on June 16, 1950,

Abel received a telephone call from Greenglass who requested Abel to go and see O. John Rogge and ask Rogge if he would represent Greenglass in this trouble. Later that morning Abel went to see Rogge concerning this. Rogge told Abel that he had received a call from Greenglass and that Greenglass wanted Abel to turn over the money to Rogge. Later that day Abel took the package from his home and returned to Rogge's office and turned the package over to Herbert J. Fabricant, Rogge's associate. (65-58236-853)

Mrs. Helen Pagano

Mrs. Pagano, secretary employed by O. John Rogge, testified that on June 16, 1950, Louis Abel brought to Rogge's office a package of money wrapped in brown paper. She stated the package contained $3,900. (65-58236-Serial 931)

Max Elitcher

Elitcher testified that he first met Sobell while both were attending Stuyvesant High School in New York City. He further stated that he and Sobell also attended the College of the City of New York together from 1934 to 1938. Elitcher graduated from the College of the City of New York with a bachelor's degree in electrical engineering. Elitcher pointed out that Julius Rosenberg also studied engineering at City College during this same period. Elitcher saw Sobell daily at school and saw Rosenberg less frequently. After graduating, Elitcher obtained employment with the Bureau of Ordnance,

Navy Department, Washington, D. C., in November, 1938. He continued this employment until October, 1948.

In December, 1938, Elitcher resided at 1316 Delafield Place, Washington, D. C. During December of that year Sobell came to Washington and stayed at a house next to Elitcher's place of residence. In April or May, 1939, Elitcher and Sobell moved in together and took up residence in a private home, 4925 Seventh Street, Northwest. In May of 1940, they moved into an apartment at 2225 M Street, Northwest. During the period they lived together Sobell was also employed at the Bureau of Ordnance. In September, 1941, Sobell left his employment to go to the University of Michigan in order to continue his studies.

Elitcher further advised that during the period he lived with Sobell they had conversations concerning the Communist Party. At Sobell's request, Elitcher joined the Young Communist League. About three or four months after May of 1939, Elitcher attended a meeting with Sobell at which there was a discussion about forming a branch of the Communist Party. This branch was formed and Elitcher joined the Communist Party at the end of 1939. Meetings of this group were held at the homes of various members and dues were paid to the chairman of the group. Elitcher stated that Sobell was the first chairman of the group. At meetings discussions were conducted of news

events based on the "Daily Worker" and literature like "The Communist." The group also discussed Marxist and Leninist theory. Suggestions were made to the members to join the American Peace Mobilization and to assist the American Youth Congress convention. Discussions were also held concerning the Hitler-Stalin Pact, and members were instructed to strive to get support of other people for the Russian position. Elitcher continued to go to these meeting until September, 1941. In 1942, Communist Party branches were formed which contained groups of employees from particular Government agencies. Elitcher joined the Navy branch of the Communist Party.

Elitcher testified that around June, 1944, he received a telephone call from Julius Rosenberg, who identified himself as a former classmate of Elitcher's at the College of the City of New York. Elitcher invited Rosenberg to visit him, and Rosenberg came to the Elitcher home the same evening. During the evening Rosenberg asked Mrs. Elitcher, who was present, to leave the room so that he could talk with her husband alone. After Mrs. Elitcher left the room, Rosenberg told Elitcher what the Soviet Union was doing in the war effort and stated that some war information was being denied the Soviet Union. Rosenberg pointed out, however, that some people were providing military information to assist the Soviet Union, and that Sobell was helping in this way. Rosenberg asked Elitcher if he would turn over information of that type to him

in order to aid the Soviet Union. Rosenberg asked Elitcher the type of work Elitcher was doing. Elitcher answered that he was working on computers and fire-control systems concerned with equipment to control the firing of missiles from guns. Rosenberg asked Elitcher to supply him with plans, reports, or books regarding new military equipment, and anything Elitcher might think would be of value to the Soviet Union. Rosenberg pointed out that the final choice of the value of the information would not be up to Elitcher but that the information would be turned over to someone for evaluation. Rosenberg stated that this information would be taken to New York in containers that would protect it and would be processed and returned before it was missed. Rosenberg gave Elitcher his address and also told Elitcher his name could be found in the Manhattan directory.

Elitcher further testified that later that summer he and Mrs. Elitcher went to New York City. Elitcher phoned Rosenberg and Rosenberg arranged a meeting and dinner with other former classmates. At this dinner there was no discussion regarding matters Rosenberg had previously discussed with Elitcher in Washington.

In September, 1944, Mr. and Mrs. Elitcher went on a one-week vacation in a State park in West Virginia with Morton Sobell and his future wife. During this vacation Elitcher told Sobell about Rosenberg's visit and request for information to

be given to the Soviet Union. Elitcher also told Sobell that Rosenberg had said Sobell was helping in this. Sobell became angry and said that Rosenberg should not have mentioned his name.

In the Summer of 1945, Elitcher and his wife were in New York on vacation and stayed at the apartment of Julius Rosenberg. Rosenberg's wife was away at the time. During their stay there Rosenberg mentioned to Elitcher that he, Rosenberg, had been dismissed from his employment for security reasons, and that Rosenberg's membership in the Communist Party seemed to be the basis of the case against him. Rosenberg told Elitcher that he had been worried about this matter because he thought his dismissal might have had some connection with his espionage activity but that he was relieved when he found out it concerned only his Communist activity.

Elitcher also testified that in September, 1945, Rosenberg telephoned him from Union Station, Washington, D. C., and said he wanted to talk to Elitcher. He came to Elitcher's home and told Elitcher that even though the war was over, the need to obtain military information for Russia continued. Rosenberg asked Elitcher as to the type of work he was doing. Elitcher told Rosenberg he was working on sonar and anti-submarine fire-control devices.

In the early part of 1946, Elitcher visited the General Electric Company in Schenectady, New York, in connection with

official business and stayed at the home of Sobell in Schenectady. At the time Sobell was working at General Electric. On this occasion Sobell and Elitcher discussed their work. Elitcher told Sobell that he was a project engineer on a fire-control system and Sobell inquired as to whether there were any reports written about this system. Elitcher told Sobell that there were some pamphlets written on various phases of this system. Sobell also asked if there was an ordnance pamphlet written on this system. Elitcher advised Sobell that one was being written by General Electric which would be ready about the first of the year. Elitcher stated he could probably get these reports but that they were unimportant. At this point in his testimony Elitcher pointed out that these reports were actually classified reports. Elitcher continued his testimony, stating that Sobell advised that he was working on Servo mechanisms relating to military work. Later that year Elitcher again saw Sobell, and Sobell asked about the ordnance pamphlet. Elitcher advised Sobell that it was not ready yet. Sobell suggested that Elitcher see Rosenberg again. At the end of 1946 or in 1947, Elitcher telephoned Rosenberg and said he would like to see him. Elitcher told Rosenberg that Sobell had suggested that he see Rosenberg. At this time Rosenberg advised Elitcher that there had been some changes in the espionage work; that he felt there was a leak, and that Elitcher should not come to see him until further notice.

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Rosenberg mentioned to Elitcher that he believed Elitcher should discontinue his Communist activities.

Elitcher testified that in 1947, Sobell had secured employment at the Reeves Instrument Company, New York City, doing classified work for the armed forces. Elitcher saw Sobell several times at Reeves and on one occasion had lunch with him at the Sugar Bowl, 89th Street and Third Avenue, New York City, in 1947. Sobell stated he was working on a plotting board. Elitcher told Sobell he was still a project engineer at the Bureau of Ordnance. Sobell asked Elitcher on this occasion if Elitcher knew of any progressive students or graduates and if so, would he put Sobell in touch with them. Elitcher told Sobell he did not know of any. Elitcher then mentioned to Sobell that he and Mrs. Elitcher were having personal difficulties. Sobell asked if Mrs. Elitcher knew about the espionage business and when Elitcher said that she might know, Sobell answered that it was not good.

In October, 1948, Elitcher left the Bureau of Ordnance and went to work for Reeves Instrument Company in New York City. Elitcher lived in a house in Flushing, New York, and Sobell lived on a street behind him. They went to work together in a car pool. During a trip home from work one evening Sobell again made the same request of Elitcher about people Elitcher might know who would be progressive. Sobell pointed out to

Elitcher that because of security measures being taken by the Government, it was necessary to find students to provide information whom no one would suspect.

Elitcher further testified that prior to leaving the Bureau of Ordnance, he had discussed with Sobell his desire to secure new employment. This discussion occurred during a visit Elitcher made to New York City in the Summer of 1948. Sobell told Elitcher not to leave the Bureau of Ordnance until Elitcher had talked to Rosenberg. Thereafter, Sobell made an appointment for Elitcher to meet with Rosenberg. They met on the street in New York, and Rosenberg told Elitcher that it was too bad Elitcher had decided to leave because he, Rosenberg, needed some one to work at the Bureau of Ordnance for espionage purposes. Sobell was present at this meeting and also urged Elitcher to stay at the Bureau of Ordnance. Sobell then left the meeting. Rosenberg and Elitcher had dinner together at Manny Wolf's Restaurant in New York City where they continued to talk about Elitcher's desire to leave his job. Rosenberg wanted to know where important defense work was being done, and Elitcher mentioned the Bell Laboratories at Whippany, New Jersey. Rosenberg suggested that possibly Elitcher could take courses at college to improve his status. (65-58236-Serial 815)

Elitcher also testified that in July, 1948, he took a trip to New York City by car, and that during this trip he believed

he was being followed. He proceeded to Sobell's home and told Sobell of his suspicion. Sobell became angry and told Elitcher he should not have come to his home if he felt he was being followed. Sobell told Elitcher to leave the house and stay somewhere else and then later agreed to allow Elitcher to stay with him. A little later that evening Sobell mentioned to Elitcher that he had some information for Rosenberg which was too valuable to destroy, and he wanted to get it to Rosenberg that night. He requested Elitcher to accompany him. Elitcher observed Sobell take a 35 mm. film can with him and place it in the glove compartment of Sobell's car. Sobell and Elitcher then left and drove to the vicinity of the Journal American Building in New York City and parked on Catherine Street. Sobell then took the can out of the glove compartment and left. When Sobell returned, Elitcher asked him what Rosenberg thought of Elitcher's suspicions that he was being followed. Sobell answered that Rosenberg thought it was nothing to worry about. Sobell also advised Elitcher that Rosenberg said he, Rosenberg, had once phoned Elizabeth Bentley but that she did not know him. (Rosenberg).

Elitcher testified that Sobell possessed a Leica camera, some 35 mm. film, and an enlarger, and that all of the material Sobell worked on in his various places of employment was classified. He stated he last saw Sobell in June, 1950.

On cross-examination Elitcher recalled that during Rosenberg's visit to his house in June, 1944, which was after D-Day, Rosenberg mentioned that he had had a drink with a Russian in celebration of this event. Elitcher testified that Rosenberg contacted him at least nine times from 1944 to 1948 in an attempt to persuade Elitcher to obtain information for him, and that Elitcher always put him off. However, in 1948, Elitcher told Rosenberg that he definitely would not cooperate with him. (65-58236-816, 837, 838)

Elizabeth Terrill Bentley

Elizabeth Bentley testified as follows: She joined the Harlem section of the Communist Party in 1935 and remained with that section until 1938. In July, 1938, she secured a job in the Italian Library of Information. During that year she was instructed to go underground and was told to pretend not to know other Communists. While employed at the Italian Library of Information, she came to know Ferucoio Marini, a Communist Party official who handled Italian Communist activity in the United States. She knew Marini under the name of F. Brown. In October, 1938, she met Jacob Golos through Marini. Golos was in the Communist underground and operated World Tourist, Inc., a travel agency set up in 1927 by the Communist Party. Golos had been, until the time of his death in November, 1943, a member of the three-man control commission of the Communist Party in the United

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States. According to Bentley, the Communist Party of the United States was part of the Communist International. After Golos died, Bentley had other contacts, the last one being Anatole Gromov, First Secretary of the Soviet Embassy in the United States. The last contact with Gromov was in December, 1945. She stated that the information which Golos had obtained was passed on to the Soviet Embassy. After Golos died, Bentley's duties consisted of collecting information from Communists employed in the U. S. Government and passing it on through Communist superiors to Moscow. She stated that Earl Browder, as well as her own observations, gave her the knowledge that the Communist Party in the United States served the interests of Moscow. She revealed that she transmitted orders to Earl Browder from Moscow, which he had to accept. She pointed out the close relationship between the Communist Party in this country and the Communist International and stated that at Communist Party meetings this close relationship was preached, and any member who did not adhere to the Party line as dictated by the Communist International in Moscow was expelled. She revealed that all of her contacts in her work were obtained from the Communist Party.

In the Summer of 1945, Bentley reported to the FBI all her activities. She was asked if she would continue her activities under FBI guidance which she did until the Spring of 1947.

Bentley stated that during her association with Golos, she became aware of the fact that Golos knew an engineer named "Julius." In the Fall of 1942, she accompanied Golos to Knickerbocker Village but remained in his automobile. She saw Golos conferring with "Julius" on the street but at some distance. From conversations with Golos, she learned that Julius lived in Knickerbocker Village. She also stated that she had phone conversations with "Julius" from the Fall of 1942 to November, 1943. On the objection of defense counsel she was not allowed to describe "Julius" or testify that Golos had obtained information from "Julius." (65-58236-882)

Bentley, in interviews with FBI Agents, had described Julius as being 5' 10" or 11" tall, slim, and wearing glasses. She had also advised that Julius was the leader of a Communist cell of engineers which was turned over to Golos for Soviet espionage purposes. Julius was to be the contact between Golos and the group. Golos believed this cell of engineers was capable of development.

Investigation by the FBI disclosed that from 1942 on Julius Rosenberg resided at 10 Monroe Street in a development known as Knickerbocker Village. Julius Rosenberg was 5' 10" tall, slim, and wore glasses. Bentley was unable to make a positive identification of Julius.

William Danziger

William Danziger, a classmate of Morton Sobell and Julius Rosenberg at the College of the City of New York, testified that about June 20, 1950, he telephoned Sobell and asked if he could borrow an electrical drill from Sobell. Sobell told Danziger he was leaving for a vacation in Mexico and that if Danziger wanted the drill he would have to come to his home and pick it up. Danziger went to Sobell's home and saw Morton and Helen Sobell and Edith Levitov, sister of Helen. Packing was in progress and valises were standing about. The Sobell car was in the driveway with the trunk open. Sobell advised Danziger he was flying to Mexico City. Danziger stayed about 10 minutes and left. About a week later, Danziger received a piece of mail from Sobell postmarked at Mexico City. The return address on the envelope had the name "M. Sowell" with a Mexico City address. Danziger could not recall the address. The envelope contained a letter to Danziger and enclosures. A note in the letter said, "Please forward the enclosures and I'll explain to you when I get back." Sobell requested that one enclosure be forwarded to Edith Levitov who resided in Arlington, Virginia. He requested that the other enclosure be given to his parents. Danziger further testified that Sobell requested him to deliver a note to Max Pasternak, an uncle of Sobell, to the effect that Sobell could be reached as "M. Sowell" at a particular address in Mexico City. Danziger

stated he delivered the note containing Sobell's pseudonym and address to Pasternak. Danziger answered Sobell's letter by writing to "M. Sowell" at the Mexico City address. He also testified that he placed the letter addressed to Edith Levitov in an envelope and mailed it to her. Two weeks later Danziger received another piece of mail from Sobell postmarked in Mexico City. The return address on the envelope had the name of "M. or Morty Levitov" with a Mexico City address which Danziger believed to be Cordova or Cordoba. The envelope contained a letter for Danziger, an enclosure for Edith Levitov and a note requesting Danziger to forward the enclosure to Edith Levitov. Danziger mailed the enclosure to Edith Levitov. He stated that he did not hear from Sobell thereafter. (65-58236-Serial 864)

Manuel de los Rios

Rios, residing at 153 Cordova, Apartment 5, Mexico City, testified that in July, 1950, he met Sobell and his family who had moved into the adjoining apartment. Sobell asked Rios for advice as to how he could leave Mexico. He told Rios he was dodging military service in the United States Army. On one occasion Sobell asked Rios for directions to go to the Port of Vera Cruz. Sobell thereafter left Mexico City around July 20 or July 22, 1950, and was gone for 15 days. Rios received a letter about 8 days after Sobell's departure postmarked Vera Cruz. He opened the envelope and observed that the letter was

for Mrs. Sobell. He delivered the letter to Mrs. Sobell. About 6 or 7 days later, Rios received a second letter from Sobell postmarked Tampico, Mexico, which Rios also delivered to Mrs. Sobell. Rios did not see Sobell after his return to Mexico City. (65-58236-Serial 873)

Minerva Bravo Espinosa

This witness, an employee of Optica Palacios, an optical concern in Vera Cruz, identified Sobell as an individual who used the name M. Sand in purchasing eye glasses from her. (65-58236-Serial 873)

Jose Brocado Vendrell

This witness, an employee at Gran Hotel Diligencias, Vera Cruz, identified a registration card of the hotel dated July 30, 1950, containing the name Morris Sand. Sobell's attorney conceded that the signature on this card was in the handwriting of Sobell. (65-58236-Serial 873)

Dora Bautista

This witness, an employee of the Hotel Tampico in Tampico, Mexico, identified Sobell as an individual who registered at the hotel on July 30, 1950, under the name of Marvin Salt. (65-58236-Serial 873)

Glenn Dennis

Mr. Dennis, travel superintendent of the CMA Mexican Airlines, produced a passenger manifest reflecting the name N. Sand on a plane flight from Vera Cruz to Tampico on July 30, 1950, and another passenger manifest reflecting the name Morton Solt on another plane flight from Tampico to Mexico City on August 2, 1950. Sobell's attorney conceded that N. Sand, Marvin Salt and Morton Solt were in fact Morton Sobell. (65-58236-Serial 873

CASE PRESENTED BY DEFENDANTS

Julius and Ethel Rosenberg testified and denied all espionage allegations against them. They admitted having a console table, but denied it was a gift from the Russians as claimed by David Greenglass and his wife. They stated that they bought this table at Macy's Department Store in New York City in 1944 or 1945. On cross-examination, they were asked questions as to their Communist affiliations. They refused to answer on the grounds of self-incrimination.

Thomas V. Kelly of Macy's Department Store was called as a defense witness and testified that Macy's sales records for the year 1944 and 1945 had been destroyed and that there was no record available of transactions for those years. (65-58236-Serials 965,929,930,931)

Morton Sobell did not take the stand.

CONCLUSION OF TRIAL

On March 28, 1951, counsel for both sides summed up their case to the jury. On this date Judge Kaufman charged the jury.

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On March 29, 1951, the jury rendered a verdict of guilty against the three defendants, Julius and Ethel Rosenberg and Morton Sobell.

After the rendition of the verdict, Judge Kaufman and Mr. Saypol thanked the Jury for their patience and care in sitting in this case.

Mr. Bloch also addressed the Court and Jury. He stated in part as follows: "I want to extend my appreciation to the Court for its courtesies, and again I repeat I want to extend my appreciation for the courtesies extended to me by Mr. Saypol and the members of his staff, as well as the members of the FBI, and I would like to say to the jury that a lawyer does not always win a case; all that a lawyer expects is a jury to decide a case on the evidence with mature deliberation..

"I feel satisfied by reason of the length of time that you took for your deliberations, as well as the questions asked during the course of your deliberations that you examined very carefully the evidence and came to a certain conclusion."
(65-58236-955-Enc.)

On April 5, 1951, Judge Kaufman imposed the following sentences:

<u>Julius Rosenberg</u> - death, such sentence to be carried out during the week of May 21, 1951.

<u>Ethel Rosenberg</u> - death, such sentence to be carried out during the week of May 21, 1951.

<u>Morton Sobell</u> - imprisonment for a term of 30 years.

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In imposing the death sentence on the Rosenbergs, Judge Kaufman made the following comments: "Your crime is worse than murder. Plain deliberate, contemplated murder is dwarfed in magnitude by comparison with the crime you have committed - - - - - - but in your case, I believe your conduct in putting in the hands of the Russians the A-bomb years before our best scientists predicted Russia would perfect the bomb has already caused the Communist aggression in Korea with the resultant casualties exceeding 50,000 - and who knows but that millions more of innocent people may pay the price of your treason."

On April 6, 1951, Judge Kaufman imposed a sentence of 15 years on David Greenglass. In sentencing Greenglass, Judge Kaufman stated that he did not condone or minimize the acts of Greenglass. He stated he must recognize the help given by Greenglass in bringing to justice, "the arch criminals in this nefarious scheme." He pointed out that it took "courage" for Greenglass to testify as he did and that Greenglass had helped to "strike a death blow to the trafficking of our military secrets by foreign agents." He also stated to Greenglass, "You, at least, have not added to your sins by committing the additional crime of perjury."

OTHER INVESTIGATIONS CONNECTING VARIOUS PERSONS WITH JULIUS ROSENBERG AND HIS ESPIONAGE ACTIVITIES

William Perl

David Greenglass advised that in September or October of 1948, Rosenberg told him that he (Rosenberg) had

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received from "one of the boys" the mathematics involved in the construction of an atomic energy airplane motor.

David Greenglass also advised he learned from Rosenberg that Rosenberg had two apartments which were used for photographing material which was turned over to the Soviets. Greenglass also learned from Rosenberg that Joel Barr worked with Rosenberg in Soviet espionage activities. An apartment at 65 Morton Street, New York City, was located which had been rented by Alfred Sarant and in which Sarant, Joel Barr and William Perl all lived at various times. The superintendent of this apartment observed photographic-type equipment in this apartment.

Perl was born October 1, 1918, in New York City, under the name of William Mutterperl. He changed his name to Perl by court order in 1945. His father was a native of Russia and his mother, a native of Poland.

Perl was a classmate at the College of the City of New York of Rosenberg and Morton Sobell. Perl began employment with the National Advisory Committee for Aeronautics (NACA) in 1939 and was assigned to Langley Field, Virginia, from 1939 to 1944, at which time he was transferred to Cleveland. He remained employed by NACA at Cleveland until September, 1950, with the exception of a period between 1946 and 1948, when he studied at the California Institute of Technology, Pasadena, California, and at Columbia University, New York City. During his employment with NACA, he had access to highly classified information.

During the Rosenberg investigation, Perl was interviewed by Bureau Agents on July 27, 1950, ten days after Rosenberg was arrested. Perl admitted that on July 23, 1950, he had been contacted at his apartment in Cleveland by a woman, whom he had previously known as a girl friend of Joel Barr. She wrote him a note in which she stated that she had been instructed by a stranger to speak to an aeronautics engineer in Cleveland and give him money and instructions on how to leave the country for Mexico. She wrote that she had money for him. Perl claims, following her departure, he flushed the note down the lavatory bowl.

It is of interest to note that prior to the arrest on June 16, 1950, of David Greenglass, Greenglass had been given instructions by Rosenberg to leave the country via Mexico; Morton Sobell actually went to Mexico in June, 1950; Alfred Sarant disappeared from the U.S. on August 4, 1950, and is known to have crossed the border into Mexico on August 9, 1950.

Perl was called before a Federal Grand Jury on September 11, 1950, and questioned concerning his association with Rosenberg, Sobell and others. As a result he was indicted on March 13, 1951, in the Southern District of New York on four counts of perjury arising out of certain denials he made concerning his acquaintance with these individuals. On May 19, 1953, the

perjury trial of Perl commenced before United States District Judge Sylvester Ryan in the Southern District of New York and a jury. On May 22, 1953, the jury returned a verdict of guilty on two counts and not guilty on two counts. On June 5, 1953, Perl was sentenced to five years on each count, to run concurrently. (65-59312)

Joel Barr

As noted hereinbefore, David Greenglass advised that after the arrest of Harry Gold on May 23, 1950, Rosenberg attempted to persuade Greenglass and his wife to flee from the U.S. via Mexico. According to Greenglass, Rosenberg told him that more important persons than Greenglass had left the country and mentioned that Joel Barr left the U.S. before Fuchs was arrested and was working for the Russians in Europe. Greenglass also advised that Rosenberg told him that Barr had gone to Europe to study music and was using his music studies as a cover for his espionage activities.

Joel Barr was born January 1, 1916, in Brooklyn, New York, and was a classmate of Rosenberg and Sobell at the College of the City of New York. He graduated from the College of the City of New York in 1938, with a bachelor's degree in electrical engineering. He was employed from July 1, 1940, to February 23, 1942, as a junior electrical engineer, Fort Monmouth, New Jersey, in the Signal Corps Laboratories and was dismissed after investigation disclosed that he had signed a Communist petition in 1939. He applied for a U.S. passport on December 1, 1947, giving as a reason for travelling abroad his desire to broaden his background by study in Europe. He left the U.S.

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on January 21, 1948, for Paris, France. He is known to have studied for short periods of time at technical schools in Sweden and Holland and ostensibly supported himself by playing the piano. He disappeared from his residence in Paris on June 16, 1950, the date Greenglass was arrested, and his present location is not known.

Max Elitcher advised that Barr was an acquaintance. Elitcher stated that he was present at social gatherings at 65 Morton Street, New York City, attended by Rosenberg, Barr, Alfred Sarant, William Perl and Morton Sobell.

Alfred Sarant advised in an interview with Bureau Agents in July, 1950, that he associated closely with Joel Barr beginning in 1941. Sarant stated that Barr frequently visited him at his apartment at 65 Morton Street; that Barr had a key to the apartment and that in 1946 when Sarant moved to Ithaca, New York, he let Barr take over this apartment. Sarant stated Barr subsequently turned the apartment over to William Perl. Sarant also stated that he believed Barr was a member of the Communist Party.

Alfred Sarant

David Greenglass advised that Julius Rosenberg told him that he had two apartments in New York City, which were used for photographic activities of the Rosenberg espionage network, one of which was located in Greenwich Village. Investigation has reflected that a Greenwich Village apartment at 65 Morton Street, New York City, was frequented by Rosenberg, Barr and Perl. This apartment was leased by Alfred Sarant from October, 1943, to January 31, 1950

Sarant vacated this apartment in the Fall of 1946, when he moved to Ithaca, New York, but he thereafter allowed various of his friend to use the apartment including Joel Barr and William Perl.

The superintendent of the premises at 65 Morton Street advised that in 1944, when he had occasion to enter this apartment in connection with his custodial duties, he observed that the apartment contained very little furniture. He said that there were three iron single cots in the apartment, work benches in the living room, a considerable quantity of electrical tools and several black tool boxes in the closet. The son of the superintendent advised that in the Winter of 1949-50, when he entered the apartment he observed a reflector-type flood bulb suspended from a wall bracket over the kitchen table which was in the living room and that there was very little furniture in the apartment.

It should be noted that Sarant left New York City on August 4, 1950, with a woman. It is known that Sarant and this woman entered Mexico shortly thereafter. The last definite information concerning his whereabouts was on August 13, 1950, when he and this woman were known to have left Guadalajara, Mexico, for Mexico City. The present whereabouts of these individuals is unknown.

During the Rosenberg investigation, Sarant was interviewed on several occasions. In July, 1950, he admitted acquaintanceship with both Julius and Ethel Rosenberg, stating he first met them sometime between 1942 and 1945. Sarant also admitted membership in the Communist Party in 1943-1944, admitted

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being an acquaintance of William Perl and admitted close association with Joel Barr since 1941. He stated he probably met Rosenberg through Barr.

Sarant stated he had a considerable interest and proficiency in photography and admitted having film development equipment and flood lamps in his apartment at 65 Morton Street. He also stated that Joel Barr had a Leica camera when Barr was residing with him in this apartment.

Sarant further admitted that on one occasion Julius Rosenberg "propositioned him" to sound him out politically, but Sarant claimed, "I didn't bite." He refused to furnish any details concerning this "proposition."

Sarant was born September 26, 1918, in New York City, and was graduated in electrical engineering from Cooper Union in June, 1941. He was discharged from the position of junior radio engineer with the Signal Corps Laboratories, Fort Monmouth, New Jersey, on September 3, 1942, and was characterized by his superiors as a labor agitator. He was thereafter employed as an engineer of the Western Electric Company and Bell Telephone Laboratories in New York City, resigning from the latter concern on September 11, 1946. From October, 1946, to the date of his disappearance, he resided in Ithaca, New York, where he was self-employed as a building and painting contractor.

COMMUNIST PARTY FRONT ACTIVITIES AND PROPAGANDA ON BEHALF OF THE ROSENBERGS

PART II

The desperate legal struggle waged on behalf of the Rosenbergs was equally matched in intensity by an extraordinary propaganda drive to "Save the Rosenbergs." Significantly, the Communists' frenzied effort to rescue the Rosenbergs from "legal murder" was deferred for more than a year after their arrest and for more than four months after they had been found guilty in a trial which the Communists later branded as a "monstrous frame-up," "a travesty of justice." The Rosenberg trial went completely unnoticed in the usually vigilant Communist Party press. Not a word about the alleged Rosenberg "frame-up" appeared in the "Daily Worker" until March 30, 1951, the day after the jury returned a verdict of guilty. Moreover, the Party's first public recognition of the Rosenberg case gave no hint whatever of the tremendous propaganda storm which the Communists would later raise over the Rosenbergs. Buried inconspicuously on page 9 of the "Daily Worker" of March 30, 1951, the Rosenberg conviction was reported in the following routine fashion:

"3 Convicted in 'Espionage' Trial"

"Two men and a woman were convicted here yesterday by a Federal Court jury on a charge of espionage for the Soviet Union during the war.

"Those convicted were Julius Rosenberg, electrical engineer; his wife, Ethel, mother of 2 children, and Morton Sobell, electronics expert.

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"The main Government witness was David Greenglass, brother of Mrs. Rosenberg."

No further notice appeared in the "Daily Worker" concerning the Rosenberg case until April 6, 1951, when it was announced under a feature headline as follows: "Rosenbergs Sentenced to Death, Made Scapegoats for Korean War." The article, noting that the Rosenbergs were parents of 2 small children, appeared to be aimed chiefly at condemning the severity of sentence rather than the verdict itself. The word "frame-up," later to become virtually synonymous with the Rosenberg trial in Communist propaganda, was not used once. In the same issue of the "Daily Worker," a front-page editorial charging that American "panic mongers" were deliberately trying to create an atmosphere of war, made several oblique references to the Rosenberg case without, however, directly questioning the verdict.

HOW A COMMUNIST FRONT IS BORN

The "National Guardian" Series:

It was not until midsummer of 1951 that the propaganda campaign on behalf of the Rosenbergs began in earnest. Even at this late date, the Communist Party did not immediately commit itself to the task of vindicating the Rosenbergs and exposing the "hideous plot" against them. Instead, the campaign was initiated in the form of a series of articles in the "National Guardian." This publication was described in 1949 by the California Committee on Un-American Activities as notoriously

Stalinist in its staff writers, management and content.

This series, written by William A. Reuben, "National Guardian" reporter, began on August 15, 1951, with an article entitled, "Is This the Dreyfus Case of Cold War America?" The opening article set the keynote for the entire series of articles as well as for the intensive Communist propaganda campaign which was soon to follow - a campaign based mainly upon insinuation, artificially created doubts, confusion and sheer deception.

This first article posed a series of suggestive questions attempting to link the Rosenberg case with such previous cases as the Dreyfus Case, the Sacco-Vanzetti Case, and with other irrelevant issues. The article neatly illustrated a key technique to be employed by the Communists in their future agitation dealing with the Rosenberg Case, i.e., to create doubt by any means possible and then to offer such synthetic doubts as proof of the Rosenbergs' "complete innocence." This was done by suggesting that there were strong grounds indicating that the Rosenbergs were victims of a "political frame-up."

Underlying this smokescreen of nameless "suspicions" and "doubts," the "National Guardian" article unwittingly revealed a major purpose of the forthcoming propaganda barrage; namely, a strenuous effort to deflect attention from the Communist Party's own indirect but deep involvement in espionage.

Following this opening announcement the "National Guardian" ran a series of 7 articles by Reuben in successive

weekly installments from August 22 to October 3, 1951. In summary, Reuben's "expose" condemned the Rosenberg trial and conviction as one gigantic frame-up based upon FBI collusion with a "self-confessed spy" and "stool pigeon" (David Greenglass) in which the Rosenbergs were "innocent victims" of war-time hysteria which was being consciously cultivated by the U. S. Government.

In order to justify this fantastic thesis, Reuben resorted to a variety of distortions, emotional appeals and half-truths which were later taken over and improved upon by the Communist press.

CLAIM OF ANTI-SEMITISM

In view of the importance which the Communist Party later tried to attach to the anti-Semitic aspects of the case, it is worth noting that the "National Guardian's" initial series of articles made only one single suggestion that anti-Semitism was involved in the trial. Even this lone reference was more of an innuendo than a concrete charge. Midway through Reuben's "expose" he remarked in passing that it was "singular" that in a city of more than 30 per cent Jewish in population (New York City) not a single Jewish juror had been chosen.

Formation of National Committee to Secure Justice in the Rosenberg Case (NCSJRC)

In its issue of October 10, 1951, one week after the completion of the Reuben series, the "National Guardian" announced that a "National Committee to Secure Justice for the Rosenbergs"

was being formed with William Reuben as its provisional chairman. The aims of this group were said to be nation-wide publicity of the facts of the case as well as the raising of funds for legal appeals on behalf of the Rosenbergs.

On January 9, 1952, a press release was issued announcin the formation of a "National Committee to Secure Justice in the Rosenberg Case" with offices at 246 Fifth Avenue, New York City, and with Joseph Brainin as chairman. According to this announcement, a group of "125 American men and women from all over the United States, who represent many occupations and professions," had joined with Brainin in organizing this Committee; however, only 18 persons were actually identified in the press release. This release called attention to the "many unexplained contradictions" in the Government's case and for the first time seriousl injected the irrelevant issue of anti-Semitism into the discussion The statement declared, "It is significant that none of the jurors was Jewish, although one-third of New York's population, where the trial took place, is of Jewish background." Continuing, the press release alleged that the severe sentence against the Rosenbergs had "raised fears in the leading Jewish press...that the Rosenbergs were 'victims of religious bigotry.'"

Shortly thereafter, an article appeared in the January, 1952, issue of "Jewish Life," (which has been cited as a part of the Communist press by the California Committee on Un-American Activities) giving the full treatment to the alleged anti-Semitic

implications of the Rosenberg case. This article was captioned, "Anti-Semitism and the Rosenbergs" and was written by Louis Harap, "Jewish Life" editor.

The absence of any Jewish jurors was described as "no accident" and a "highly suspicious aspect of the Government's approach" to the case. The fact that both the trial judge (Judge Kaufman) and the United States Attorney who tried the case (Irving Saypol) were Jewish, far from discouraging Harap, was offered as further evidence of anti-Semitism. With incredible logic, Harap argued that the selection of a Jewish judge was comparable to the Nazi's use of the notorious Judenrat (Jewish committees appointed for the purpose of punishing other Jews). Harap said the Government chose a Jewish judge and prosecutor expressly "to preclude any charge of anti-Semitism in meting out the unprecedented death sentence."

It is noteworthy that in playing up the charge of anti-Semitism because of the absence of Jewish jurors, no mention was made of the fact that a Negro, Emanuel Clarence Dean, was a member of this jury. It is probable that if this jury did not have a member of the Negro race on it, a similar charge of discrimination against the Negro would have also been made in this case.

THE COMMUNIST PARTY JOINS THE CAMPAIGN

On February 28, 1952, the Communist Party, which had remained largely in the background during all of this preliminary propaganda activity, finally joined in the chorus through its

official organ, the "Daily Worker." The Communist Party mouthpiece declared, "The Rosenberg case is a ghastly political frame-up It was arranged to provide blood victims to the witch-hunters, to open the door to new violence, anti-Semitism, and court lynchings of peace advocates and Marxists as 'spies.'"

Two weeks later the Communist-front Civil Rights Congress issued a press release calling for nation-wide support of the Rosenbergs. The anti-Semitic aspects of this case were now ready for full-scale exploitation as evidenced in a statement issued by William L. Patterson, Executive Secretary of the Civil Rights Congress. Patterson said "...the Rosenberg frame-up is a new high in the growing anti-Semitism. The lynching of these two innocent American Jews, unless stopped by the American people, will serve as a signal for a wave of Hitler-like genocidal attacks against the Jewish people throughout the United States... The murder of the Rosenbergs will inevitably lead to new and fiercer attacks on Jewish synagogues such as we have seen in Florida, to more Hitler youth movements as have grown in Philadelphia."

When the campaign to "Save the Rosenbergs" went into high gear in approximately January, 1952, Communist activity in the case became nothing short of feverish. No trick of demagogy was overlooked. No possible promotion angle was neglected. Mass rallies, parades, picketing of public offices, prayer meetings, vigils and delegations to Congressmen and

other public officials were supplemented by an intensive campaign to send thousands of letters and telegrams to the President urging clemency, the dissemination of hundreds of thousands of pamphlets, circular letters, financial appeals as well as the collection of thousands of signatures on clemency petitions. The campaign extended into some 40 foreign countries. Supporters of the Rosenbergs in France went so far as to declare a "National Rosenberg Day" and on June 16, 1953, it was reported that the Government of Poland had offered "political asylum" to the Rosenbergs in the event they were freed.

CLEMENCY PETITIONS AND APPEALS

In addition to such dramatic promotions, the NCSJRC had solicited thousands of signatures for clemency petitions and appeals of one kind or another. The total number of persons signing such petitions is not known; however, it has reportedly been as high as 48,000 per week at the height of the campaign.

Many of these appeals have undoubtedly been made in good faith; however, the NCSJRC and the Communist press have reported them with little regard for honesty.

It is quite evident that the clemency drive was from the beginning a highly artificial affair which was carefully promoted rather than a spontaneous public reaction as the Communist press sought to show. This was indicated from the mere fact that the "Daily Worker" was able to print the names and

addresses of hundreds of clergymen and intellectuals who had written to the President asking for clemency. Unless the NCSJRC or the Communist Party had solicited such letters themselves, the Party press would have no way of knowing who had written to the White House except in a few isolated instances. At a number of rallies sponsored by the NCSJRC, individuals in attendance were handed telegrams, post cards or letters which were already completely filled out and addressed to the President and which lacked only a signature. In addition it has also been reported that representatives of the NCSJRC conducted intensive house-to-house canvasses, particularly in the Jewish and Negro neighborhoods, in an effort to obtain signatures forclemency petitions.

Apart from such synthetic methods of recruiting clemency advocates, the NCSJRC was not above resorting to plain misrepresentation. According to an article appearing in the Seattle "Post Intelligencer" on January 7, 1953, a number of Seattle clergyman had been "recruited" in the following manner. The ministers were asked over the telephone whether or not they favored capital punishment. If they replied in the negative, as many of them did, they were then asked if they were not therefore opposed to the electrocution of the Rosenbergs. Irrespective of their answers, their names were entered on the list of those opposing the Rosenbergs' death sentence. Another instance of deceptive reporting took place in connection with a statement made by Rabbi Abba Hillel Silver of Cleveland, Ohio. During the latter part of 1952, the Communist press headlined the fact that Rabbi Silver had joined

the clemency drive. An advertisement placed in the "Washington Evening Star" on January 5, 1953, by the "Emergency Committee of the Arts and Professions to Secure Clemency for the Rosenbergs," one of many satellites of the NCSJRC, quoted Rabbi Silver as follows: "...I believe that the death sentence which has been imposed is unprecedented in the legal annals of our country...I believe that our country is strong and great-hearted enough to be merciful..."

The full text of Rabbi Silver's solicited statement, which incidentally was in the form of a reply to a letter from Emanuel H. Bloch, the Rosenbergs' defense attorney, received no publicity. It included such additional remarks as the following: "I have accepted the verdict of the courts in their conviction of the Rosenbergs...The crime of which they have been found guilty is a heinous one and I found no sympathy in my heart for men and women who betray their country. I was especially resentful of the effort that was made to drag in the issue of anti-Semitism in this most unfortunate affair..."

Probably the most flagrant instance of distortion, however, occurred in connection with a statement issued by Pope Pius XII in December, 1952. The Communist press made it appear that the Pope had directly and personally interceded and asked for clemency on behalf of the Rosenbergs. Moreover, when it developed that the Pope's statement had not been immediately made public, the Rosenberg supporters hurled heated charges of "suppression," "gagging," etc., by the Department of Justice, which had received the Pope's communication.

The actual facts were far different. Pope Pius XII made no personal appeal for clemency whatsoever, but merely notified the Department of Justice in routine fashion through Catholic officials in Washington, D. C., of the fact that he had received a number of appeals asking him to request clemency for the Rosenbergs. According to a statement later issued by the Apostolic Delegation in Washington, the Pope had made no attempt "to judge the merits of the case" but had merely informed the Department of Justice of the fact that the Vatican had received appeals on behalf of the Rosenbergs. This information was confirmed by former Attorney General McGranery in an interview reported by the "New York Times" on February 15, 1953.

Despite these statements, the Communists and NCSJRC propaganda continued to use the Pope's name and to suggest that the Vatican had intervened in support of the clemency drive.

Pro-Rosenberg propagandists, fully aware of the natural aversion which many people feel toward capital punishment, were not above playing upon this sentiment with morbid references to the Rosenbergs' "charred bodies," "seared flesh," etc., in the event the death sentence should be carried out. The "Daily Worker" characterized the sentence as "savage," "vindictive," "sadistic," etc. It spoke of the "brutal accents" of President Eisenhower's denial of clemency and described Department of Justice briefs in support of the sentence as "cold-blooded" documents. Altogether, the impression was conveyed that the Government had been motivate

by some kind of "inhuman" blood lust throughout the entire proceedings. The propaganda from the NCSJRC also attempted to invoke a note of patriotism on occasion. The Rosenberg sentence has been referred to as a "crime against the American people," and agitation on behalf of the Rosenbergs has been called a fight against "national dishonor and shame" as well as a struggle for "American democracy." To underline this motif, rallies sponsored by the NCSJRC have been solemnly opened with the playing of the National Anthem.

ACTIVITIES OF THE NATIONAL COMMITTEE TO SECURE JUSTICE IN THE ROSENBERG CASE

During August, 1952, only 6 months after the founding of the National Committee to Secure Justice in the Rosenberg Case, a "Midwest Conference on the Rosenberg Case" was held at Chicago, Illinois. During the conference a report of the National Committee was read which reflected that since its inception the NCSJRC had already distributed approximately 400,000 pieces of literature. It was further reported to the conference that the National Office of the Committee had already secured about 35,000 signatures for various petitions and it was indicated that the Midwest affiliates of the Committee would undertake to obtain at least 40,000 additional signatures by the end of October, 1952.

A financial report was delivered setting forth that since November, 1951, the NCSJRC had raised approximately $50,000 in contributions. Some $30,000 of this amount was received through the mails, $10,000 at large public meetings, $5,000 from small meetings and house parties, and $5,000 from literature sales. Expenditures of the NCSJRC through July, 1952, included such items at $4,500 for newspaper advertising, $10,000 for printing costs, $12,500 for overhead, postage and salaries, $7,000 for legal fees and $11,000 for printing a Supreme Court brief. It has been reliably reported that up until the date of the Rosenbergs' execution the NCSJRC raised approximately $300,000.

The "Daily Worker" issue of May 5, 1952, reported that chapters of the NCSJRC had been established in 25 cities. In addition to its own affiliates, the NCSJRC has received support from such organizations as the Civil Rights Congress, the Labor Youth League, and other Communist-front organizations as well as from various divisions of the Communist Party itself. It has been reliably reported in fact that the World Federation of Trade Unions, had been contacted and requested to organize world-wide demonstrations against the U. S. Government in connection with the Rosenberg case.

Among the more spectacular activities of the NCSJRC to date have been the following:

From December 27, 1952, to January 17, 1953, a continuous round-the-clock picket line was maintained at the White House during the period that former President Truman was presumably studying a plea for executive clemency. This "White House Clemency Vigil" was called off on January 17, 1953, after more than 500 consecutive hours, only when it became evident that President Truman would not rule on the petition for clemency prior to his retirement from office. According to the "Daily Worker" this affair was climaxed on January 5, 1953, when more than 2,000 persons from 22 states arrived at the Nation's Capital to take part in the "vigil."

On December 21, 1952, some 800 persons took part in a demonstration for the Rosenbergs which was held at Ossining, New York, near Sing Sing Prison where the Rosenbergs were incarcerated and awaiting execution. Although barred from holding a meeting directly at the prison gates as originally planned, the demonstrators were permitted to send a five-man delegation to the prison walls to deliver Christmas cards addressed to the Rosenbergs as well as a huge floral wreath bearing the inscription, "Greetings to Julius and Ethel Rosenberg from the People."

As the final legal moves were being made by the Rosenbergs' defense attorneys, thousands of pickets formed around the White House in June, 1953. The majority of these pickets poured into Washington, D. C., from New York City where the NCSJRC had arranged for several special "clemency trains" to carry these Rosenberg sympathizers to the Nation's Capital.

The picketing at the White House commenced at approximately 1:30 P.M. on June 14 and at 4:00 P.M. the pickets marched to Ninth Street and Constitution Avenue, Northwest, where the NCSJRC held a "prayer meeting" at which the Rosenbergs were eulogized by officials of the Committee and several clergymen.

An official count of the pickets by the Washington, D. C., Metropolitan Police Department indicated that there were approximately 6,800 persons involved in this blatant attempt to pressure the President of the United States into granting clemency for the

convicted atom spies. The NCSJRC's own estimate of the number of pickets was set at 13,000.

Following this "prayer meeting," the majority of pickets entrained for New York City leaving a small handful of pickets to continue the "24-hour vigil" at the White House. The picketing of the White House continued until June 17, 1953, when, after the U. S. Supreme Court recessed for the summer, Mr. Justice Douglas announced that he had granted a stay of execution in order that new points of law brought before him by defense attorneys could be heard by the lower court.

Upon receiving the news that the Government was successful in petitioning for an extraordinary session of the U. S. Supreme Court, the NCSJRC went into action and again sent pickets to parade before the White House.

The picketing continued until the execution of the Rosenbergs was announced at approximately 8:45 P.M. on June 19, 1953. About 500 pickets were on hand at the White House at the time of the execution.

A near riot was narrowly averted by the local police as roughly 7,000 persons jeered and threatened the 500 pro-Rosenberg pickets. As the pickets marched away, led by 3 men carrying American flags, the throng across the street became incensed. At the request of the police, the pickets lowered the American flags and as they departed they heaped their placards in

a pile in front of the White House.

During the picketing activities of the NCSJRC in Washington, the following incidents occurred which are of interest:

On June 3, 1953, it was learned that the Committee had set up offices at the Inspiration House in Washington and that this office was controlled and directed by people from New York City. It was also ascertained that one of the local members of the Committee voiced strong resentment stating that it appeared to her that the national office of the Committee felt that, "We in D. C. are not competent enough."

On June 14, 1953, a woman telephonically advised the FBI that she had mistakenly received 6 or 8 telephone calls that day from persons inquiring about the details of a demonstration planned by the NCSJRC. She advised that most of the callers asked if this was the Committee for today's "outing."

Another individual advised that on June 18, 1953, a worker at NCSJRC Headquarters at Inspiration House was sent out

with $60 in large bills to be exchanged for 60 one dollar bills. This money was to be furnished to out-of-town demonstrators for expenses in order to keep as many as possible in D. C. for the White House death vigil.

On June 14, 1953, a demonstration was held by the NCSJRC on the Mall in the vicinity of 9th and Constitution Avenue, Northwest, Washington, D. C. Several ministers read prayers at the meeting. In each instance the ministers were applauded; a rather unusual reception for a prayer.

ATTEMPT TO INFLUENCE CONGRESSMEN

Also, during the activities of the NCSJRC in Washington, delegations from this organization were sent to contact various congressmen, senators and officials here. Many of these individuals had attempted to see a congressman of New York at his office in Washington. He had to hide in the men's room in order to avoid seeing them. A congressman also related that his son, a war veteran, while visiting Washington observed the picketing and recounted that an elderly Negro was being lead around by a white woman; the elderly man asked the woman what he was supposed to do.

ROSENBERGS' ATTORNEY CALLS GOVERNMENT BARBARIC

On June 19, 1953, after Emanuel Bloch had exhausted all legal efforts to see the President and was told that the Rosenbergs were to be executed that evening, Bloch made the statement that the action of the Government had revealed "to the entire world

Tolson
Ladd
Nichols
Belmont
Clegg
Glavin
Harbo
Rosen
Tracy
Gearty
Mohr
Winterrowd
Tele. Room
Holloman
Sizoo
Miss Gandy

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that the people who are running this Government are much more barbaric than the Nazis when they were in power in Germany." He also reportedly stated that he did not know "what kind of animals I am dealing with, but I know I am dealing with animals." (Washington Star of June 20, 1953.)

Bloch also reportedly requested that the warden at Sing Sing Prison convey the following message to the Rosenbergs: "Tell them I tried to do my best. Tell them I feel ashamed that I'm an American today." (Washington City News Service 6-19-53)

ROSENBERG PROPAGANDA IN FOREIGN COUNTRIES

It is noteworthy that this case has also been used by Communist Parties throughout the world for propaganda purposes against the United States. American embassies in Canada and Europe were flooded with petitions for clemency by various organizations and people. During the last few days prior to the execution of the Rosenbergs, demonstrations were held in major capitals of Europe such as Paris, Rome and London on behalf of the Rosenbergs. In a Washington City News Service release of June 20, 1953, foreign reaction to the execution was reported as follows:

"Paris - Communist-led groups swarmed through European streets last night and early today in generally orderly demonstrations protesting the execution of atom spies Julius and Ethel Rosenberg. A French teen-ager was shot and wounded and 386 persons were arrested in Paris."

Two bottles of kerosene were thrown through the window of the U. S. Information Service in Dublin.

According to this news account, most European newspapers headlined the execution, but only the Communist sheets studiously ignored the fact that the Rosenbergs had been convicted of a particularly odious crime.

In Rome, a pro-Government newspaper, "Il Popolo," suggested that the Reds might better save their tears for the victims of Communist oppression in Berlin. The newspaper said, "We too are moved when we think of the two children of the couple sentenced to death in the West." "But we are still more dismayed by the fate of all the orphans of men mowed down in the streets of Berlin by the machine guns of a grim and inhuman regime." (Obviously referring to the recent riots in East Berlin and the suppression of them by Russian military forces.)

The news account also reported that Tass News Agency (official Soviet news agency) charged the Rosenbergs were executed "in defiance of the protests of world opinion." The Polish News Agency charged the execution was "a murder carefully prepared beforehand and staged in detail by the thugs of the FBI."

According to accounts from Italy, Red flags flying from Communist Headquarters and the homes of Communist Party members in Naples were half-masted after the execution.

In Austria, the Communist Party scheduled a protest meeting at a theater in the Soviet zone of Vienna.

FALSE CLAIMS EXPOSED

The tactics employed in this campaign of pressure were those of falsehoods and distortions. The Red Fascists adopted the Hitler big-lie technique.

Their claim of anti-Semitism brought forth an admonition from the Anti-Defamation League to the Jewish Community cautioning this community not to be used.

They charged infringement of Civil Rights - yet the American Civil Liberties Union concluded, after studying the case, that there were no Civil Rights issues involved.

PART III

COURT ACTION FOLLOWING CONVICTION

The Communist employed every conceivable trick in their efforts to aid the atom spies, including high pressuring the courts by innumerable appeals. The case was dragged out for a period in excess of two years.

On April 5, 1951, Judge Irving R. Kaufman, District Judge, Southern District of New York, sentenced Julius and Ethel Rosenberg to death, and Morton Sobell to thirty years' imprisonment. The execution date was set for the week of May 21, 1951. However, the execution was stayed when a notice of appeal filed in the Circuit Court, was served on the warden of Sing Sing Prison on April 11, 1951. (65-58236-1056)

On April 23, 1951, an application for a writ of habeas corpus was filed before District Judge John C. Knox, United States District Court, Southern District of New York, in which it was requested that Ethel Rosenberg be moved from the condemned cells at Sing Sing Prison, Ossining, New York. The application claimed that

such incarceration was cruel and inhuman treatment and further that she had been put in that prison in order to separate her from her husband, Julius, and force her to cooperate with the Government. The hearing was continued before District Judge Henry W. Goddard, who on June 22, 1951, denied the application. In denying this application, Judge Goddard stated as follows: "The Attorney General may transfer a convict from a Federal to a State prison without notice to or consent of the convict. No evidence was presented to support the relator's allegations in her petition that she was transferred there in an effort to 'break' her or that the Attorney General exercised his discretion for an ulterior purpose or in any but a lawful manner. Indeed, the initiative for her transfer did not come from the Attorney General or any of his subordinates. . . The Commissioner of the Department of Correction, City of New York, requested that the Federal authorities transfer her because of the crowded condition of the House of Detention and because of the lack of proper facilities there for the detention of a prisoner awaiting the execution of a death sentence." Judge Goddard then continued, "The relator's second ground for relief is also without merit. The Eighth Amendment was adopted to prevent inhuman, barbarous, or tortuous punishment or some punishment unknown at common law. Section 3566 of Title 18, U.S. Code, provides 'The manner of inflicting the punishment of death shall be that prescribed by the laws of the place within which the sentence is imposed. The United States marshal charged with the execution of the sentence may use available local facilities. . . .'"

Judge Goddard also said, "Apparently the Congress intended that the general provisions quoted and discussed above should apply in this situation. These provisions give the Attorney General authority to determine the place of incarceration for all Federal prisoners. There is no logical reason why these provisions should not be applicable here."

Judge Goddard concluded, "The relator presented no convincing evidence that her confinement was cruel, inhuman, or unusual. Accordingly, my conclusion is that the relator's transfer to Sing Sing prison was lawful and that her confinement in the death cell block there is not unusual or cruel and inhuman within the meaning of the Eighth Amendment of the Constitution of the United States."

It is interesting to note that in support of the Rosenbergs' contention that Ethel Rosenberg was placed in Sing Sing prison in order to cause her to break, the defendants subpoenaed several syndicated newspaper columnists such as Leonard Lyons and Hy Gardner, and questioned them concerning items they had printed in their columns to that effect. Leonard Lyons refused to reveal the source of his information and the question arose as to whether a newspaper writer could claim that the information which he received and printed in his column was of a privileged nature. Judge Knox ruled that as a matter of law in the Federal Courts, such privilege was not ascribed to a newspaper reporter. However, he ruled that in this case Lyons did not have to reveal the source of his information. (65-58236-1116)

RULING OF U. S. CIRCUIT COURT OF APPEALS

On November 5, 1951, Emanuel H. Bloch, attorney for the Rosenbergs, filed with the Circuit Court of Appeals, Second Circuit, an appeal brief, the main points of which were (a) the statute under which the Rosenbergs were tried violated the First, Fifth, and Sixth Amendments to the U. S. Constitution for failure to establish sufficiently definite and certain findings of guilt; (b) the conduct of the trial judge deprived the defendants of a fair jury trial; (c) the trial court committed reversible error in admitting certain Government evidence; (d) the sentence imposed by the trial judge constituted cruel and unusual punishment in violation of the Eighth Amendment.

On February 25, 1952, the U. S. Circuit Court of Appeals, Second Circuit, unanimously affirmed the conviction of Julius and Ethel Rosenberg with the opinion written by Judge Jerome Frank. In dealing with the various points raised by the defense counsel, Judge Frank stated, "Since two of the defendants must be put to death if the judgments stand, it goes without saying that we have scrutinized the record with extraordinary care to see if it contains any of the errors asserted in this appeal."

In dealing with point (a) raised by the defense, Judge Frank stated, "The language employed appears sufficiently definite to apprise the public of prohibited activities and is consonant with due process." Judge Frank also stated, "We think the statute

valid under the First Amendment, as well. The communication to a foreign government of secret material connected with the national defense can by no far-fetched reasoning be included within the area of the First Amendment protecting free speech." In commenting on the defendants' attack against the reliability of the Government witnesses, Judge Frank observed as follows: "Doubtless if that testimony were disregarded, the conviction could not stand. But where trial is by jury, this court is not allowed to consider the credibility of witnesses or the reliability of testimony. Particularly in the Federal judicial system, that is the jury's province." He was referring to the testimony of the Greenglasses. Judge Frank, in commenting on the instructions to the jury of Judge Kaufman that "In the Federal Court a defendant can be convicted upon the uncorroborated testimony of an accomplice whose testimony satisfied the jury of the defendants' guilt beyond a reasonable doubt," said, "So instructed, the jury found defendants guilty. Faced with such a verdict this Court is obligated to assume that the jury believed the evidence unfavorable to the defendants. On that assumption, the evidence to sustain the verdict is more than ample."

In discussing the defendants' allegations that the trial judge's actions prevented a fair trial, Judge Frank stated, "Defendants' counsel who first broached this suggestion on a motion for a mistrial after all the evidence had been heard, said that the

judge's alleged fault had been 'inadvertent' and added that the judge had 'been extremely courteous to us and afforded us lawyers every privilege that a lawyer should expect in a criminal case.' Soon after the denial of this motion, counsel for the Rosenbergs, summing up for the jury, stated 'we feel that the trial has been conducted. . . with that dignity and decorum that befits an American trial.' Still later, the same counsel said that 'the Court conducted itself as an American judge.' These remarks, by a highly competent and experienced lawyer, are not compatible with the complaints now made. Nor are those complaints deserved. We think the judge stayed well inside the discretion allowed him."

In discussing the effect of evidence introduced to show the defendants expressed a preference for the Russian social and economic organization over ours and that they were members of the Communist Party, Judge Frank spoke as follows: "We think the evidence possessed relevance. An American's devotion to another country's welfare cannot, of course, constitute proof that he has spied for that other country. But one may reasonably infer that he is more likely to spy for it than other Americans not similarly devoted. Hence, this attitude bears on a possible motive for his spying, or a possible intent to do so when there is other evidence in the case that he did such spying. We have held such testimony admissible in a similar case involving espionage for Nazi Germany."

In discussing the testimony of Elizabeth Bentley, Judge Frank stated as follows: "If the jury believed her, she supplied the missing link connecting the Communist Party with the Soviet Union, and making Communist Party membership probative of motive or intent to aid Russia." Judge Frank on this same point continued as follows: "Whether and how much of that kind of evidence should come into a trial like this is a matter for carefully-exercised judicial discretion. We think the trial judge here did not abuse that discretion."

In discussing the testimony of David Greenglass that Julius Rosenberg took a proximity fuse from the Emerson Radio Company where he worked, and gave that fuse to Russia, Judge Frank stated, "At any rate, the testimony was admissible to show an intent on Julius' part to aid Russia."

In ruling on the defendants' argument that it was an abuse of discretion for the trial judge to impose the death penalty in this case, Judge Frank said: "Unless we are to overrule sixty years of undeviating Federal precedents, we must hold that an appellate court has no power to modify a sentence. . . Further discussion of this subject my colleagues think unnecessary. He then referred to the argument of the defendants that the death sentences in this case violated the Eighth Amendment of the U. S. Constitution which forbids cruel and unusual punishment, and the test urged by the defendants to indicate that a punishment was

cruel and unusual was that it shocked the conscience and sense of justice of the people of the United States. In commenting on this Judge Frank stated, "In all likelihood, it would be - - if the evidence was as the Rosenbergs depict it: They say they were sentenced to death, not for espionage, but for political unorthodoxy and adherence to the Communist Party, and that they had only the best of motives in giving information to Russia which, at the time, was an ally of this country, praised as such by leading, patriotic Americans. But the trial judge, in sentencing the Rosenbergs, relied on record evidence which shows a very different picture. If this evidence be accepted, the conspiracy did not end in 1945, while Russia was still 'a friend,' but, as the trial judge phrased it, continued 'during a period when it was apparent to everybody that we were dealing with a hostile nation.'" Judge Frank pointed to the testimony of Government witnesses indicating that the conspiracy continued up through 1950. Judge Frank continued, "This Court cannot rule that the trial judge should have disbelieved those witnesses whom he saw and heard testify. And, although the indictment did not charge, and therefore the jury did not find, that the Rosenbergs intended to harm the United States, the trial judge could properly consider the injury to this country of their conduct, in exercising his discretion as to the extent of sentences within the statutory limits."

With regard to the test suggested by the defendants, Judge Frank stated, "Assuming the applicability of the community-attitude test proposed by these defendants, it is impossible to say that the community is shocked and outraged by such sentences resting on such facts. In applying that test it is necessary to treat as immaterial the sentences given (or not given) to the other conspirators, and also to disregard what sentences this Court would have imposed or what other trial judges have done in other espionage or treason cases, for such matters do not adequately reflect the prevailing mood of the public. In short, it cannot be held that these sentences are unconstitutional." (65-58236-1288)

PETITION FOR REHEARING DENIED

On March 11, 1952, a petition for rehearing was filed on behalf of the Rosenbergs with the Circuit Court of Appeals, Second Circuit. In this petition the same points raised in the prior petition to the Circuit Court of Appeals were raised with the additional argument that the defendants actually were tried for treason without the constitutional safeguards surrounding that crime and further, inasmuch as the Courts can give a death sentence for treason, to give the same sentence for a lesser crime constituted cruel and unusual treatment. (65-58236-1288)

On April 8, 1952, the Circuit Court of Appeals for the Second Circuit unanimously denied this petition for a rehearing. The opinion of the Court was written by Judge Frank. In this

opinion Judge Frank stated ". . . in the Rosenbergs' case, an essential element of treason, giving aid to an 'enemy,' is irrelevan to the espionage offense." In discussing the defendants' argument concerning cruel and unusual punishment, Judge Frank ruled "This argument, we think, involves an unfounded assumption, i.e., that Congress will always authorize the death sentence for treason. Without that assumption the argument would compel the strange conclusion that if Congress in its discretion, authorized a maximum twenty-year penalty for treason, no greater punishment could be given for espionage, sedition, or a similar crime without 'its becoming cruel and unusual.'" (65-58236-1258,1298)

APPEAL TO U. S. SUPREME COURT

On October 13, 1952, the United States Supreme Court denied a petition for a writ of certiorari filed on behalf of Julius and Ethel Rosenberg. At the same time, an application of the National Lawyers Guild for leave to file a brief as amicus curiae was denied by the Supreme Court.

(65-58236-1364)

On October 28, 1952, a petition for a rehearing on behalf of the Rosenbergs was filed with the United States Supreme Court. The points raised on this petition were that the Rosenbergs were subjected to a treason prosecution under color of a charge of conspiracy to commit espionage and that the admission of evidence concerning the Communist affiliations of the Rosenbergs was highly inflammatory and prejudicial and that the death sentences were based on untrue assumptions on the part of Judge Irving Kaufman. The petition also claimed that the Supreme Court had the power to modify, vacate or set aside the death sentences imposed by Judge Kaufman. On November 17, 1952, the United States Supreme Court denied the petition of the subjects for a rehearing by a vote of eight to one. Mr. Justice Frankfurter filed a memorandum opinion in which he stated that the Supreme Court of the United States had no power to change a sentence imposed in the United States District Court. He stated it was primarily the responsibility of the Circuit Court of Appeals to review

the record of a trial in a district court and that in the case of the Rosenbergs the "Circuit Court of Appeals for the Second Circuit was deeply conscious of its responsibility in this case." (65-58236-1133)

PETITION TO VACATE THE CONVICTIONS

A petition was filed by the defendants under Section 2255, Title 18 of the United States Code to vacate the convictions and stay the execution of the Rosenbergs. This petition was referred to Federal Judge Sylvester J. Ryan of the Southern District of New York, who on December 10, 1952, denied the petition of the defendants to set aside their convictions. The various grounds listed by the defendants were substantially as follows:

a. Pretrial and trial publicity including press releases precluded the defendants from having a fair trial.

b. The arrest of William Perl and publicity therefrom during the defendants' trial prejudiced their case.

c. The Government knowingly used false testimony of David Greenglass at the trial.

d. Government witness Ben Schneider perjured himself in stating that he had not seen the Rosenbergs from the time he took their photograph until the time of his appearance as a witness at the trial, inasmuch as Schneider had been brought into the court by the Government to identify the Rosenbergs the day before he testified.

e. The Government falsely classified atomic data as being secret.

In an affidavit filed in opposition to this motion as an answer to the claim that pretrial and trial publicity

precluded the defendants from having a fair trial, Myles J. Lane, United States Attorney for the Southern District of New York, stated:

"Counsel for the Rosenbergs at the trial who, incidentally, is the very same counsel making the moving petition on the instant application, stated in open court after the jury had returned its verdict of guilty as to each of the defendants as follows: 'A lawyer does not always win a case; all that a lawyer expects is a jury to decide the case on the evidence with mature deliberation. I feel satisfied by reason of the length of time that you took for your deliberations, as well as the questions asked during the course of your deliberations that you examined very carefully the evidence and came to a certain conclusion.' The Rosenbergs counsel on summation stated: 'We feel that the trial has been conducted and we hope we have contributed our share with that dignity and decorum that befits an American trial.'"

(65-58236-1348)

In his opinion dated December 10, 1952, Judge Ryan stated as follows: "I find no relevant or material issue of substance raised by the petitions, which requires a hearing thereon or which renders the taking of oral testimony either necessary or helpful. I have concluded, after affording the attorneys for petitioners full opportunity to argue the legal problems presented by the petition and to make proffers of proof, that the petitioners are entitled to no relief, that the court which rendered judgment had jurisdiction, that the sentences imposed were authorized by law and are not otherwise open to collateral attack on any of the grounds urged by the petitioners, and that full and complete enjoyment of the constitutional rights of petitioners have been extended them

and have in no way been denied or infringed. These petitions were filed twenty months after the verdict of guilty was returned by the jury, following a trial which petitioners' attorneys stated, 'had been conducted. . .with that dignity and that decorum that befits an American trial' and that defense counsel had been afforded 'every privilege that a lawyer should expect in a criminal case.'"

With regard to the pretrial publicity, Judge Ryan reasoned as follows:

"A reading of the newspaper articles submitted by the petitioners reveals nothing of an unusual or inflammatory character. The articles seem but a fair response to a legitimate public interest in a matter of vital concern to all. . . The accounts of the arrests and subsequent indictments of petitioners tended to allay a public anxiety and to give assurance that those charged with the protection of vital information were alert and diligent in the performance of their obligations."

In further discussing this point, Judge Ryan stated: "The trial began on March 6, 1951, shortly less than seven months after the arrest of Sobell, the last defendant to be taken into custody. Any public prejudice which might be ascribed to newspaper publicity incident to the arrest of these defendants had long since been dissipated among the populace of

the area from which the talesmen were drawn - an area where occurrences no matter how sensational lose their news value and no longer attract public interest after a much shorter space of time than seven months."

In discussing the publicity attending the indictment and arrest of William Perl which occurred during the trial, Judge Ryan remarked, "There was nothing unusual in the procedure followed." Judge Ryan further stated, "By affidavit, the United States Attorney now reveals that it was not until March 6, 1951, that he came into possession of evidence sufficient in law to sustain Perl's indictment for perjury. This satisfactorily explains why Perl was not indicted until March 13, 1951, for perjury alleged to have been committed on August 18, 1950, and on September 11, 1950. The United States Attorney further states that the Perl indictment has not yet been brought to trial because of a purpose on his part to prevent disclosures which would interfere with other prosecutions. I may not on this hearing pry into the reasons which prompted the prosecutor to adjourn the trial of the Perl indictment. I accept the explanation given; certainly the delay does not warrant drawing the inference which the petitioners press. Again, as to the

indictment of Perl, there is not the slightest proof that any of the trial jurors read of the arrest or indictment of Perl or that it came to their attention in any manner. A defendant may not demand that the machinery of law enforcement be stopped while his trial proceeds, or that the prosecution of others, who, as he, are charged with violating the law, be held in abeyance until his trial has been completed."

With regard to the Defense allegation that the Government knowingly used false testimony of David Greenglass at the trial, Judge Ryan stated as follows:

"When he (Greenglass) was pressed on the trial as to the exact time when he had said he would make the statement, Greenglass testified 'You can't pinpoint me on when I said I was going to give a statement, because I don't remember those things.' Questioned further on the subject he added that he hadn't 'read the statement since and I certainly don't know exactly what I put in it' but he added that he hadn't 'conscientiously' withheld any facts that night and that the statement he had then made was substantially the same as his testimony in the trial. At no time did petitioners' attorney call for the production of the statement, or ask the trial judge to examine it for the purpose of determining whether it did, in fact, contain statements

contradictory to the testimony he had given on the trial. No request was made for a direction that the statement be delivered to the petitioners' attorneys for use on their extensive and searching cross-examination of Greenglass." Judge Ryan added, "I do not have to consider the affidavits of Special Agents Lewis and Frutkin to arrive at a finding that there is no factual basis for inferring that Greenglass' testimony was perjurious or 'that it was knowingly, willfully and intentionally used.' Full opportunity during trial was available to petitioners' attorney to demand at least a preliminary examination of Greenglass' statement; no such application was made. I do not feel called upon to now examine the statement on the flimsy showing made."

With reference to the Defense contention that it was improbable Greenglass could have reproduced from memory sketches of the lens mold and the cross section of the atomic bomb which were introduced as evidence during the trial, Judge Ryan opined, "Petitioners now submit 'affidavits from three individuals, represented as experts in the field of physics, who express the opinion that it is 'improbable' that Greenglass could have reproduced the sketches from memory. A fourth affidavit from a scientific writer or correspondent for a newspaper records his opinion as to the 'impossibility' of Greenglass' being able to make these

sketches from memory. It is upon these 'opinions' that petitioners would have me find that Greenglass gave perjurious testimony concerning the circumstances surrounding the drawing by him of these exhibits. None of these four affiants could possibly have seen exhibit 8, which had been impounded."

Exhibit 8, referred to by Judge Ryan, was a sketch of a cross section of the atomic bomb prepared by Greenglass and which Greenglass testified to as being a recollection of a sketch he furnished to Rosenberg in September, 1945.

Judge Ryan also said, "Opinion evidence when offered by one who has neither observed the witness while he testifies nor ever seen him is inadmissible in any trial and may not be considered by me as the basis for a conclusion that perjury was committed."

The Defense also contended that the testimony of Ben Schneider, Government rebuttal witness, was perjurious. Regarding this point, Judge Ryan stated, "It is not disputed that on the day prior to Schneider's testimony he had been brought into the trial courtroom for the purpose of seeing whether he could identify Rosenberg as the person whose photograph he had taken. There was no motive for falsehood on the part of Schneider and there is not the slightest evidence that Schneider's testimony on this was intentionally false. I hold it to be on an immaterial point because the

petitioners (Rosenbergs) did not deny on cross-examination prior to Schneider's appearance as a witness that they had been in Schneider's store."

Judge Ryan continued:

"The vital portion of Schneider's testimony was his recollection of what Julius Rosenberg had told him; on that a sharp issue was raised and it appears from the verdict to have been resolved by the Jury adversely to the petitioners. The challenge now made to Schneider's testimony does not stamp him as a perjurer."

Regarding the defendant's claim that the information which they conspired to transmit should not have been classified secret, Judge Ryan said:

"They (defendants) contend that there was nothing informative or new about the details of the high-explosive lens used in atomic weapons, that the theory underlying the use of the lens and implosion has been known for many years. They have listed the names and authors of various treatises and texts in the field of nuclear physics, and from this would have me conclude that the experimentation in the use of the atomic bomb which was disclosed was a matter of public knowledge. . . Certainly, we cannot say that in the United States this information has been made public, nor can we assume that 'it has become available in one way or another to any foreign government.' Petitioners offer no evidence to support their

contention that the classification of this information was arbitrary, or that the United States Government had information which would have led it to believe it was well-known."

Judge Ryan also opined: "The claim now made by petitioners cannot be said to constitute newly-discovered evidence. The very basis of their argument that prior knowledge of this use of atomic energy is revealed by the recorded experiments and treatises of numerous physicists was evidence available to them during the trial and an issue which could have been presented then and considered by the jury in its determination of the nature of the information which petitioners conspired to transmit. This issue of fact was presented to the jury by the trial judge; it was resolved against the petitioners; it may not be retried on this application." (65-58236-1432)

ACTION BY THE CIRCUIT COURT OF APPEALS

On December 31, 1952, the Circuit Court of Appeals, Second Circuit, unanimously affirmed the order of Judge Ryan, United States District Court, dismissing the defendants' motion under Section 2255. The opinion in the Circuit Court of Appeals was written by Chief Judge Thomas Swan.

In discussing the alleged prejudicial newspaper publicity, Judge Swan stated, "When a defendant believes that pretrial publicity has been such as to render impossible the selection of an impartial jury, there are well-recognized methods of raising this issue before the trial commences. He may move for a change of venue or for a continuance until the public clamor shall have subsided. The petitioners took neither of these courses. On the voir dire the prospective jurors were carefully questioned as to whether they had read or heard about the case and a jury was selected satisfactory to the defendants, who did not even use all the peremptory challenges permitted them. Nor do they allege that any trial juror was, in fact, prejudiced by the publicity now asserted to have made a fair trial impossible. Their present position is obviously an afterthought inspired by the hope of reversing the verdict by appeal and petitions for certiorari. The excuse offered by counsel for the Rosenbergs is that he did not realize at the trial the extent and the inflammatory character of the publicity as it could not have been revealed to him 'by the

usual sporadic reading of an average newspaper reader, and he was so busy that he 'read the newspapers' infrequently. But if he did not realize it, there is no reason to suppose that the jury was more seriously affected."

In further discussing the matter of publicity, Judge Swan said, "The best that can be said in the instant case is that, at the time of trial, astute counsel decided that the publicity did their clients no harm, and now want this court to decide otherwise."

In discussing the effect of the Perl indictment and the statements made by the United States Attorney to the press that Perl had been listed as a witness in the Rosenberg trial, Judge Swan stated, "But the essence of the wrong done the petitioners does not lie in the intent of the prosecutor but in the prejudicial publicity which may come to the attention of the jury. When publicity believed to be prejudicial occurs during a trial, the defendant may move for a mistrial or may request the trial judge to caution the jury to disregard it. In this case the defendants did neither....This was their deliberate choice after conferring with the judge out of the presence of the jury."

With regard to the alleged use by the Government of perjurious testimony, Judge Swan opined, "There are three specifications. The first relates to Greenglass' testimony that on the night of his arrest he did not withhold any facts from the FBI. When he was sentenced on April 6, 1951, the day after the

petitioners' sentences, the United States Attorney stated to the court, 'Mr. Rogge protested his innocence' at the arraignment. 'Through Ruth Greenglass, his wife, came the subsequent recantation of these protestations, and repudiation of the disclosures of the facts by both of them.' On the basis of this statement the petitioners argue that the testimony was false and known to be false by the prosecuting officer. Judge Ryan said that when read in context with all the proceedings on April 6 he did not regard it as an admission that Greenglass had committed perjury and that there was no factual basis for inferring that perjurious testimony had been knowingly used. We agree. It is notable that petitioners made no mention of these facts on their previous appeal although then well aware of them."

In dealing with the allegations that David Greenglass could not have prepared sketches from memory and hence his testimony was false, Judge Swan stated, "This is nothing new, for at the trial, the defendants, on cross-examination, had brought out the details of Greenglass' education, with the patent purpose of persuading the jury that he had lied. In support of their renewed assertion of his perjury, defendants.....presented the affidavits of four scientists who expressed the opinion that Greenglass, with his limited education as shown at the trial, could not have made the sketches from memory. Since none of them knew Greenglass, none was in a position to give an opinion about the quality of his memory which, no matter what his education, may

have been amply sufficient for this purpose....The affidavits bear solely on the credibility of his testimony and that issue was properly submitted to the trial jury for decision."

Regarding the testimony of Ben Schneider, Judge Swan said, "Judge Ryan was correct in ruling that there was not the slightest evidence that Schneider's testimony was intentionally false and that in any event it was on an immaterial point, i.e., identification of the Rosenbergs as persons whose pictures he had taken, since the Rosenbergs had not denied that they might have gone to his shop for that purpose, although Julius Rosenberg categorically insisted that they were not passport pictures."

With regard to the defendants' claim that the information transmitted should not have been classified "secret," Judge Swan stated, "The petitioners' next point is that their conviction should be set aside because one item of information classified as secret which they were charged with having conspired to transmit to Russia, was so generally known that transmitting it was not forbidden by the Espionage Act. This matter was thoroughly discussed by Judge Ryan. We have nothing to add to his opinion except to say that United States v. Heine, 2 Cir., 151 F. (2D), 813, upon which the appellants rely is so different in its facts as to be completely inapposite."

As to the questions advanced by defendant Morton Sobell that he should have been tried under the treason clause of the Constitution rather than the Espionage Act, Judge Swan opined,

"It was raised before the Supreme Court in the petition for rehearing which was denied. Assuming without decision that nevertheless it may now be read in its present form by a motion under Section 2255, we hold that it is without merit." (65-58236-1406

On January 2, 1953, Judge Irving R. Kaufman, District Court, denied the application of Julius and Ethel Rosenberg for clemency. In the course of his opinion, Judge Kaufman stated as follows:

"In response to this application, I have not only heard counsel at great length and studied the defendants' petition, but also have re-studied the voluminous record of the trial and refreshed my recollection of the demeanor of the witnesses. Re-examining the question de novo, I am again compelle to conclude that the defendants' guilt - as found by the unanimous verdict of the jury - was established beyond doubt. None of the so-called later discoveries or revelations which counsel contend created doubt of guilt touch the basic matters disclosed by the testimony of Ruth and David Greenglass, Max Elitcher, Ben Schneider, and the other Government witnesses, whom the jury chose to believe and which points unmistakably to the full and conscious participation of the defendants in this conspiracy. On this application baseless charges of perjury have been hurled at severa Government witnesses. The jury has already decided this question to the contrary, so did my colleague Judge Ryan, so did the

United States Court of Appeals. I am also convinced that these witnesses told the truth. Therefore, we observe several judicial determinations attesting to the credence of the challenged Government witnesses."

Judge Kaufman continued, "The issue which now confronts this Court, therefore, is whether, assuming the guilt of the defendants, and the overwhelming character of the evidence renders such assumption inescapable, there nevertheless exist other considerations which would warrant reduction of the sentence."

Judge Kaufman also stated, "The Court, however, has had a solemn trust placed in its hands by the people of this land and I am convinced that any change of these sentences by this Court, in the light of the evidence adduced in this case, would be a violation of that trust. Devotion to duty and justice must prevail over action which could be attributable only to the emotions."

Judge Kaufman also opined, "The Rosenbergs were not minor espionage agents; they were on the top rung of this conspiracy. Julius had direct contact with the representative of the foreign Government, to wit, Yakovlev, a Russian vice-consul in New York City. He had contacts with other representatives of the U.S.S.R. He dispersed large amounts of Russian espionage funds - for example, the $5,000 given to Greenglass to flee the jurisdiction. He was always the principal recruiter for scientists and technicians and the guiding spirit of the conspirators. And at all times

Ethel Rosenberg, older in years and wise in Communist doctrine, aided and abetted and advised her husband."

In discussing the letters received urging judicial clemency Judge Kaufman said as follows: "In the many letters urging judicial clemency, which have been submitted to this Court, the overwhelming preponderance of which are in response to a self-serving solicitation by counsel for the Rosenbergs, it has frequently been urged that the sentences were unprecedented, being the first such sentences imposed for peacetime espionage. I hasten to correct this misapprehension and emphasize, therefore, that the sentences were not imposed for peacetime espionage but for wartime espionage. This Court would not have the power to impose these sentences for peacetime espionage. The letters referred to, for the greater part, indicate that the writers have never read the record, are unfamiliar with the facts in the case, or have been misinformed concerning them. Some of these writers do not hesitate to pass judgment on the credibility of witnesses even though they have not observed them on the witness stand, a basic essential to judging credibility. They nevertheless assume the role of a super-jury, sitting in absentia."

In discussing the seriousness of the crime committed by the Rosenbergs, Judge Kaufman said, "Is the act not perhaps more treacherous and reprehensible when our own fellow Americans, decide to traffic in our deepest military secrets and to transfer the information concerning these secrets to a foreign power while

we are engaged in war; then continue to traffic in our military secrets when this allegedly friendly country becomes hostile to us and engages in a cold war with America? We can expect citizens of a foreign nation to do everything to benefit their country, but we have a right to expect Americans not to enlist in a conspiracy to destroy their own country."

In answer to the Defense's contention that Russia was our ally at the time this crime was committed, Judge Kaufman stated, "But the Rosenbergs urge that Russia was our ally in 1944 and 1945 and hence this Court in imposing sentence was using hindsight. To accept this contention is to approve the theory that this is not a Government of responsible civil and military leaders, charged with the duty of determining what military secrets are to be given to a foreign power, but that the decision rests with any individual who might be disgruntled with the determination made by our leaders on matters affecting our security. Such a Government, it is obvious, could not long exist."

In dealing with the defendants' contention that Russia was a friendly country at the time of the transmission of information Judge Kaufman said, "Furthermore, Congress wisely did not distinguish between a friendly or an enemy country in prescribing punishment for acts of espionage. The law was intended to protect and to keep inviolate our military secrets from all foreign powers." Continuing, Judge Kaufman stated, "What right have these defendants now to cry, 'Russia was our ally,' when they were the

very ones caught with their hands in our pockets trying to filch from their own country this weapon which, were its secret inviolate might have been crucial in maintaining peace with the post-war world. It is apparent that Russia was conscious of the fact that the United States had the one weapon which gave it military superiority and that, at any price, it had to wrest that superiorit from the United States by stealing the secret information concernin that weapon. The tragedy of it is that it was successful."

In answer to the defendants' claim that the information which allegedly was transmitted was not secret, Judge Kaufman stated as follows:

"The defendants contend that the acts of which they have been found guilty were not detrimental to the United States or of benefit to the Soviet Union, because the information which was transmitted to the Russian agents was not secret but was available in publicly distributed scientific periodicals. But it is ludicrous to assert that the defendants' elaborate precaution to escape detection and the furtive conduct which characterized all their acts as members of the Soviet-run espionage ring were directed at the attainment of information already in the public domain."

With relation to the sentences passed on other conspirators in this conspiracy and on other persons convicted of espionage, Judge Kaufman said, "It has also been urged that others

have received lesser sentences. Indeed, this Court imposed a lesser sentence upon the co-conspirator, David Greenglass. There are several answers to this. The degree of implication of each conspirator and his subsequent aid to the Government in ferreting out co-conspirators must be considered. Julius and Ethel Rosenberg were the prime movers in this conspiracy; into it they sucked David and Ruth Greenglass....Not of little importance in connection with the Greenglass sentence, is the cooperation which the Government received from him, a factor which I publicly stated at the time of his sentence deserved consideration from the Court....Neither defendant has seen fit to follow the course of David Greenglass and Harry Gold. Their lips have remained sealed and they prefer the glory which they believe will be theirs by the martyrdom which will be bestowed upon them by those who enlisted them in this diabolical conspiracy (and who, indeed, desire them to remain silent). Harry Gold received the maximum prison sentence of 30 years....Gold has been a most cooperative and penitent witness since his apprehension....Klaus Fuchs received the maximum prison sentence under the English law and his cooperation is now a matter of record....It should be noted that Fuchs was not convicted of violating an espionage statute but of violating an act known as the Official Secrets Act. To be bound by the sentences imposed on Fuchs and Alan Nunn May, would be to say that this country has no right to pass its own laws to deal with offenses as its Congress determines but must blindly follow

the law of a foreign nation even though it materially differs from our own. Of course, both Fuchs and May plead guilty."

Judge Kaufman also stated, "This Court has no doubt but that if the Rosenbergs were ever to attain their freedom they would continue in their deep-seated devotion and allegiance to Soviet Russia, a devotion which has caused them to choose martyrdom and to keep their lips sealed. The defendants, still defiant, assert that they seek justice, not mercy. What they seek, they have attained. Despite this, I must nevertheless consider whether they are deserving of mercy. While I am deeply moved by considerations of parenthood and while I find death in any form heart-rending, I have a responsibility to mete out justice in a manner dictated by the statutes and interests of our country. My personal feelings or preference must be pushed aside for my prime obligation is to society and to American institutions. The families of these defendants are victims of their infamy, but I am mindful that countless other Americans may also be victims of that infamy. The defendants were not moved by any consideration of their families and their children in committing their crimes, but have urged such consideration upon the Court in order to make more difficult an already difficult task."

In summing up, Judge Kaufman stated, "So, we observe, that it is over one year and nine months since this Court discharged the unpleasant duty of sentencing these defendants.

During that time, their appeal has been carried from this Court through all the appropriate Appellate Courts and the sentence and judgment have not been disturbed. No legal recourse has been denied the defendants. Through all of this no other court has been able to find a reversible error or the legal justification to set aside the sentence."

In rendering his decision on this motion, Judge Kaufman said, "I have meditated and reflected long and difficult hours over the sentence in this case. I have studied and re-studied the record and I have seen nothing nor has anything been presented to me to cause me to change the sentence originally imposed. I still feel that their crime was worse than murder. Nor have I seen any evidence that the defendants have experienced any remorse or repentance. Unfortunately, in its place, this Court has been subjected to a mounting organized campaign of vilification, abuse, and pressure. This Court, however, is not subject to such an organized campaign and the pressures which have been brought to bear in this case, nor does it require such techniques to make it cognizant of the human tragedy involved. The application is denied."

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PETITION FILED FOR EXECUTIVE CLEMENCY

On January 6, 1953, an order was signed by District Judge Irving R. Kaufman, Southern District of New York, and consented to by Emanuel H. Bloch, Attorney for the Rosenbergs, and Myles J. Lane, U. S. Attorney, Southern District of New York. This order granted a stay of execution of the defendants which had been set for the week of January 12, 1953, with the conditions that on or before January 10, 1953, an affidavit of counsel for the defendants be filed attesting that a petition for executive clemency was duly filed for submission to the President and further that the stay was being granted for the sole purpose of permitting the President to pass upon the defendants' plea for executive clemency. Further if any action was to be taken or legal proceeding instituted which caused delay or interfered with the expeditious processing of the said application for executive clemency, the stay would be vacated. The order further contained a provision that the stay granted would expire five days after the determination by the President upon the petition for executive clemency. (65-58236-1393)

On February 11, 1953, President Dwight D. Eisenhower denied the petition for executive clemency filed by the Rosenbergs. In denying this petition, President Eisenhower stated, "These two individuals have been tried and convicted

of a most serious crime against the people of the United States. They have been found guilty of conspiring with intent and reason to believe that it would be to the advantage of a foreign power, to deliver to the agents of that foreign power certain highly secret atomic information relating to the national defense of the United States. The nature of the crime for which they have been found guilty and sentenced far exceeds that of the taking of the life of another citizen; it involves the deliberate betrayal of the entire nation and could very well result in the death of many, many thousands of innocent citizens. By their act these two individuals have, in fact, betrayed the cause of freedom for which free men are fighting and dying at this very hour."

President Eisenhower continued, "The courts have provided every opportunity for the submission of evidence bearing on this case. In the time-honored tradition of American justice, a freely selected jury of their fellow citizens considered the evidence in this case and rendered its judgment. All rights of appeal were exercised and the conviction of the trial court was upheld after full judicial review, including that of the highest court in the land. I have made a careful examination into this case, and I am satisfied that the two individuals have been accorded their full measure of justice. There has been neither new evidence nor have there been mitigating circumstances which would

justify altering this decision and I have determined that it is my duty in the interest of the people of the United States, not to set aside the verdict of their representatives." (65-58236-Sub A8)

On February 11, 1953, the Circuit Court of Appeals, Second Circuit, granted a stay of execution for the Rosenbergs until March 30, 1953, in order to allow them to appeal to the Supreme Court of the United States. No written decision accompanied this stay. The execution date had been set for March 9, 1953. (65-58236-Sub A8)

On May 25, 1953, the United States Supreme Court denied without opinion an application for a writ of certiorari requested by the defendants. (65-58236-1662)

On May 25, 1953, the United States Supreme Court vacated the stay of execution which was granted by the Circuit Court of Appeals on February 17, 1953. (65-58236-1663)

On May 26, 1953, the United States Supreme Court denied a motion filed by the defendants requesting the Court to stay action on their petition for a writ of certiorari which was denied May 25, 1953. This stay was requested to allow filing of an amended application for a writ of certiorari. (65-58236-1690, 1667, 1664)

On May 29, 1953, District Judge Irving R. Kaufman set the date of execution of the Rosenbergs for the week of June 15, 1953. The usual execution date at Sing Sing Prison is Thursday night which meant the Rosenbergs were scheduled to die June 18, 1953. (65-58236-1677)

On June 1, 1953, Judge Irving R. Kaufman denied a motion made on behalf of the Rosenbergs to set aside the death sentences. On this motion Emanuel Bloch, attorney for the Rosenbergs, argued that the indictment was defective in that it did not allege that the conspiracy took place in time of war or was intended to take place in time of war. Based on this assumption, Bloch alleged that the sentence should not have been more than twenty years. In opposition to this motion, United States Attorney Edward J. Lumbard argued that the indictment clearly showed the Rosenbergs were charged with an offense punishable by death. In denying this motion, Judge Kaufman said that Bloch's application was transparent and without any merit whatever. He stated that if he were to make a guess, twenty-five carefully-planned points of law had been raised in the Court in the two years and two months since the conviction and that this was the first occasion on which this particular point had been submitted. He stated that the words "then and there being at war" appeared in the indictment which clearly showed to the defendants that they were charged with having conspired in wartime to transmit information. (65-58236-1688)

On June 8, 1953, the Circuit Court of Appeals, Second Circuit, denied a motion by the defendants for a writ of mandamus ordering District Judge Kaufman to reduce the

sentences. The basis for this motion was that Judge Kaufman had considered the following factors in sentencing the Rosenbergs: (a) the Rosenbergs' devotion to Soviet Russia; (b) Judge Kaufman classified the Rosenbergs as traitors, whereas, they were not charged as traitors; (c) the Rosenbergs had an intent to injure the United States, whereas, the indictment charged transmittal of information for the advantage of a foreign country; and (d) the death sentence was used by Judge Kaufman in an attempt to coerce a confession from the Rosenbergs.

On June 5, 1953, the Circuit Court of Appeals, the Second Circuit, denied a motion for a stay of execution which was requested to give the defendants time to appeal to the United States Supreme Court from the denial by the Circuit Court of the defendants' motion for a writ of mandamus. In denying this motion, Judge Swan of the Circuit Court instructed Emanuel Bloch that this motion should properly be filed with the United States Supreme Court.

On June 5, 1953, the Circuit Court of Appeals, the Second Circuit, affirmed the action of Judge Kaufman in which he denied a motion for reduction of sentence on June 1, 1953.

On June 8, 1953, the defendants' motion for a new trial under Rule 33 and for vacating and setting aside the death sentences under Section 2255, Title 18, United States Code, was argued before Judge Irving R. Kaufman. The reason

for this motion was based on two general grounds: (a) newly discovered evidence and (b) the prosecuting authorities had knowingly used perjured testimony to convict the Rosenbergs. Emanuel Bloch, defense attorney, argued that the Greenglass testimony relating to the console table allegedly given to the Rosenbergs by the Russians was false; further, that statements the Greenglasses had made to their attorneys contradicted the testimony they had given at the trial. Bloch also argued that a deal had been made between the Government and the Greenglasses in return for their testimony and that the theft of uranium by David Greenglass from Los Alamos was proof that he was engaged in independent espionage and that in order to save himself from prosecution for that theft he falsely involved the Rosenbergs.

It is noted that David Greenglass testified at the trial that the Rosenbergs had a console table which Julius said had been given to him by the Russians. Greenglass further testified that the table had been hollowed out and was used by the Rosenbergs for photographic purposes. Bloch claimed to have recently located the console table in the home of Mrs. Sophie Rosenberg, mother of Julius Rosenberg, and that it was not hollowed out or altered in any way. Bloch also presented an affidavit from a furniture buyer at Macy's Department Store, which affidavit stated that the photograph of this table resembled a type of table possibly

sold by Macy's in 1944 or 1945 for $19.97. Bloch attributed significance to this affidavit because Rosenberg had testified that he purchased the console table at Macy's Department Store for about $21.

In regard to the theft of uranium, David Greenglass admitted to FBI Agents on March 25, 1953, that he had stolen a sample of uranium from Los Alamos while he was stationed there but had thrown it into the East River. Greenglass said he took this as a souvenir and that all members of the Rosenberg family were aware of this fact.

Judge Kaufman gave an oral opinion in which he denied the Rosenbergs' motion in all respects. He stated that in connection with the allegations under Section 2255, the papers and arguments considered in conjunction with the record showed the Rosenbergs were entitled to no relief; that not one Government witness had recanted; and that no material issue of fact was raised requiring the taking of testimony at a hearing. He noted that the affidavits concerning the console table, with the exception of an affidavit from Joseph Fontana, furniture buyer at Macy's, were from relatives and further, that at the trial Mrs. Evelyn Cox, former domestic employed by the Rosenbergs, had testified that Ethel Rosenberg told her the table was a belated wedding gift from a friend. Judge Kaufman also noted that Julius Rosenberg had denied that the table was a gift in his testimony. He said that, assuming the

table was purchased from Macy's Department Store, it did not resolve the conflict and that the identity of the vendor was not important but that the use of the table was important. Judge Kaufman also pointed out no receipts were produced at the trial or at this hearing and that the existence of a table sold by Macy's did not establish that perjury was committed. Further, he stated it was incongruous to say that the Government should have produced the table when it was shown by the defendants on affidavits that it was in the possession of the Rosenberg family. Judge Kaufman also noted that Leon Summit of the "National Guardian," weekly newspaper, had no trouble in locating the table. He pointed out that the information concerning the table furnished by the Greenglasses came in response to questions concerning gifts to Julius Rosenberg from the Russians and the testimony concerning the table played an infinitesimal part in the trial. Judge Kaufman also stated that the facts concerning the table had been testified to by David and Ruth Greenglass in early March, 1951, and again by Julius and Ethel Rosenberg at that time; that since the Rosenberg family was available now, they certainly were available to testify at the trial that they had seen the table in the Rosenberg home. He stated there was no basis for the charge of perjured testimony.

Concerning the theft of uranium by David Greenglass, Judge Kaufman questioned why Greenglass would throw the uranium in the river and asked how this theft tended to implicate innocent members of the family. He stated it was fair to characterize the conclusion of the defendants as unsupported and incredible.

Concerning the statements of the Greenglasses made to their attorneys and the fact that the defendants sought to attack the credibility of the Greenglasses by these statements, Judge Kaufman stated it was clear the statements referred to general information supplied by David Greenglass to his attorney concerning statements he had furnished to the FBI. Judge Kaufman pointed out that on cross-examination David had testified he had given six or seven statements and had not remembered all of the details of his actions in his first interview. The Judge also pointed out that David's testimony had been corroborated by his wife, Harry Gold, and others. Judge Kaufman denied the motions of the defendants under Section 2255, stating that he did not accept the charges that perjured testimony was knowingly used by the Government.

In connection with the Rosenberg motion for a new trial on the grounds of newly discovered evidence, Judge Kaufman listed 5 points that have to be shown as set forth in the "On Lee Case," namely, that the (a) evidence is newly discovered; (b) diligence of the defendants; (c)

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evidence is not cumulative or impeaching; (d) evidence is material; and (e) evidence is of such a nature that on a new trial the newly discovered evidence would probably produce an acquittal. Judge Kaufman noted that not one Government witness had recanted. He stated the guilt of the defendants was established overwhelmingly and the present alleged evidence did not in any way diminish the strength of the Government's case. Judge Kaufman denied the motion for a new trial, as well as a stay of execution requested by the defendants. (65-58236-1699)

On June 9, 1953, Emanuel Bloch appeared before the United States Court of Appeals, Second Circuit, and requested a stay of execution pending an appeal to that court of Judge Kaufman's denial for a new trial and arrest of judgment dated June 8, 1953. The court refused to grant a stay. (65-58236-1709)

On June 11, 1953, Circuit Court of Appeals, Second Circuit, affirmed Judge Kaufman's denial of defendants' motion for a new trial. The Circuit Court also denied the defendants' application for a stay of execution. This action was taken without opinion. (65-58236-1746)

On June 13, 1953, one Fyke Farmer, attorney, submitted a 60-page petition for a writ of habeas corpus before Judge Edward Dimock, District Judge, Southern District of New York, requesting the release of Julius and Ethel Rosenberg.

It is noted that Farmer had attempted, in the past, to file papers in the Rosenberg case. He was described as an attorney from Tennessee who had interested himself in the case and who claimed to have attempted to have Bloch bring up certain points of law. Farmer indicated that Bloch had refused to follow his advice and, therefore, he, Farmer, was acting as an independent attorney. One of the points raised by Farmer on this motion was that the Rosenbergs were denied a fair trial, inasmuch as Exhibit 8 was impounded at the trial and witnesses were excluded. (It is noted that Exhibit 8 was the sketch prepared by David Greenglass of the atomic bomb. It should also be noted that this exhibit was impounded, and the witnesses were excluded on motion of defense counsel during the trial.) Farmer also raised the point that the Rosenbergs should have been sentenced under the Atomic Energy Act of 1946 instead of the Espionage Act and that pursuant to the terms of the Atomic Energy Act they could not have received a death sentence unless the jury so recommended. This motion was referred to Judge Kaufman. On June 15, Judge Kaufman denied the motion filed by Fyke Farmer. In denying this motion Judge Kaufman stated as follows: "The defendants have been represented throughout this litigation by counsel of their own choice, Mr. Emanuel H. Bloch. One Irwin Edelman of Los Angeles, California, the petitioner, represented by one Fyke Farmer of Tennessee and two other lawyers strange to this litigation, seeks a writ

of habeas corpus on behalf of Julius and Ethel Rosenberg. The papers submitted show not only no authorization for the petitioners to act, but it is quite clear that the petitioner and his counsel are nothing short of intruders and interlopers in this litigation."

U. S. SUPREME COURT DENIES STAY OF EXECUTION

On June 13, 1953, Emanuel Bloch, attorney for the Rosenbergs, appeared before Supreme Court Justice Jackson and made a motion for a stay of execution. Justice Jackson heard the arguments from both Bloch and the Government attorneys and he then referred the matter to the full court to be heard on June 15, 1953. On June 15, 1953, the full Supreme Court denied the application for a stay of execution made by the Rosenbergs by a five to four decision.

On June 15, 1953, following the denial by the United States Supreme Court for a stay of execution, the defense attorney made an oral application for a writ of habeas corpus. This application for leave to file the writ was denied by the Supreme Court. The basis for this application for a writ of habeas corpus was as follows: (a) The Rosenbergs were convicted without due process of law in violation of the Fifth Amendment; (b) Perjured testimony of certain witnesses, which could not have been innocently accepted by the prosecution. Specific reference was made to the testimony of the Greenglasses. (c) The death sentence should only have been given had secret information actually

been transmitted to Russia. (d) Lack of intelligence and education of David Greenglass to pass the information concerning the processes involved in constructing the A-bomb.

JUSTICE DOUGLAS GRANTS STAY (65-58236-1745, 1752)

On June 16, 1953, Justice Douglas of the Supreme Court requested the Rosenberg defense attorneys to submit their petitions for a stay of execution in writing. On this date, Daniel G. Marshall, attorney, Los Angeles, and Fyke Farmer, attorney, appeared at the Supreme Court and attempted to file petitions for a writ of habeas corpus on behalf of the Rosenbergs. Their action in attempting to file these writs was opposed by Emanuel H. Bloch and John F. Finerty, attorneys for the Rosenbergs. These petitions for a writ of habeas corpus were heard by Mr. Justice Douglas in his chambers. The main point made by Farmer and Marshall in their petition was that under the 1946 Atomic Energy Act the death sentence might be imposed only upon the recommendation of the jury and then only when the defendants were charged with intent to injure the United States. Farmer argued that, inasmuch as the conspiracy for which the Rosenbergs were convicted commenced in 1944 and existed until 1950, the provisions of the Atomic Energy Act applied to the sentencing rather than the provisions of the Espionage Act of 1917. On June 17, 1953, Mr. Justice Douglas granted a stay of execution in order that the question raised by Farmer could be argued in the District Court and more evidence received in order to

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determine whether there was merit to Farmer's argument. In granting this stay, Mr. Justice Douglas stated, "It is important that the country be protected against the nefarious plans of spies who would destroy us. It is also important that before we allow human lives to be snuffed out we be sure - emphatically sure - that we act within the law. If we are not sure, there will be lingering doubts to plague the conscience after the event. I have serious doubts whether this death sentence may be imposed for this offense except and unless a jury recommends it. The Rosenbergs should have an opportunity to litigate this issue." Mr. Justice Douglas stated that he felt it was a substantial legal question which should be decided after full argument and deliberation. (65-58236-1896)

On June 18, 1953, R. Boland Ritche, Attorney, Wichita, Kansas, filed by mail with the United States District Court, Southern District of New York, a petition for a writ of habeas corpus in which the allegation was made that the indictment in this case should be dismissed because it contained allegations that acts of espionage were committed in time of war and in time of peace and that the defendants should have been convicted under the peacetime provisions of the espionage statutes which carry a maximum sentence

of thirty years imprisonment. Judge Sulvester J. Ryan, Southern District of New York, denied this motion on June 18, 1953. (65-58236-1879)

On June 18, 1953, Arthur Kinoy, attorney, New York City, filed on behalf of Emanuel Bloch a petition for a stay of execution based on the argument of Fyke Farmer that the Atomic Energy Act superseded the Espionage law of 1917. This petition requested the Court to (a) vacate the sentence and dismiss the indictment, or, (b) vacate sentence and direct a new trial, or (c) grant a full hearing on the allegations contained therein. This motion was denied by Judge Kaufman in all respects on June 19, 1953, prior to the execution of the Rosenbergs. (65-58236-1859)

U. S. SUPREME COURT VACATES STAY OF EXECUTION

On June 19, 1953, a special session of the United States Supreme Court, which had been called by Chief Justice Vinson in order to review the stay granted by Mr. Justice Douglas on June 17, 1953, vacated the stay granted by Mr. Justice Douglas. The opinion of the Court was written by Mr. Justice Jackson with whom there were joined Chief Justice Vinson, Mr. Justice Reed, Mr. Justice Burton, Mr. Justice Clark and Mr. Justice Minton. In his opinion Mr. Justice Jackson stated, "This stay was granted upon such legal ground that this Court cannot allow it to stand as the basis upon which lower courts must conduct further

long-drawn proceedings. The sole ground stated was that the sentence may be governed by the Atomic Energy Act of August 1, 1946, instead of the earlier Espionage Act. The crime here involved was commenced June 6, 1944. This was more than two years before the Atomic Energy Act was passed. All overt acts pertaining to atomic energy on which the Government relies took place as early as January, 1945. The Constitution, Article I, Section 9, prohibits passage of any ex post facto Act. If Congress had tried in 1946 to make transactions of 1944 and 1945 offenses, we would have been obliged to set such an Act aside. To open the door to retroactive criminal statutes would rightly be regarded as a most serious blow to one of the civil liberties protected by our Constitution. Yet the sole ground of this stay is that the Atomic Energy Act may have retrospective application to conspiracies in which the only overt acts were committed before that statute was enacted. We join in the opinion by Mr. Justice Clark and agree that the Atomic Energy Act does not, by text or intention, supersede the earlier Espionage Act. It does not purport to repeal the earlier Act, nor afford any grounds for spelling out a repeal by implication." Mr. Justice Jackson also stated, "This stay is not and could not be based upon any doubt that a legal conviction was had under the Espionage Act. Application here for review of the Court of Appeals' decision affirming the

conviction was refused, 344 U. S. 838, and rehearing later denied, 344 U. S. 889. Later, responsible and authorized counsel raised, among other issues, questions as to the sentence, and an application was made for stay until they could be heard. The application was referred to the full Court, with the recommendation that the full Court hold immediate hearing and as an institution make a prompt and final disposition of all questions.'

Mr. Justice Jackson continued, "Thus, after being in some form before this Court over nine months, the merits of all questions raised by the Rosenbergs' counsel had been passed upon, or foreclosed by denials. However, on this application we have heard and decided a new contention, despite the irregular manner in which it was originally presented."

In discussing the manner in which this stay was granted, Mr. Justice Jackson said, "This is an important procedural matter of which we disapprove. The stay was granted solely on the petition of one Edelman, who sought to appear as 'next friend' of the Rosenbergs. Of course, there is power to allow an appearance in that capacity, under circumstances such as incapacity or isolation from counsel, which make it appropriate to enable the Court to hear a prisoner's case. But in these circumstances the order which grants Edelman's standing further to litigate this case in the lower court cannot be justified. Edelman is a stranger to the

Rosenbergs and to their case. His intervention was unauthorized by them and originally opposed by their counsel. What may be Edelman's purpose in getting himself into this litigation is not explained, although inquiry was made at the bar. It does not appear that his own record is entirely clear or that he would be a helpful or chosen companion. The attorneys who appear for Edelman tell us that for two months they tried to get the authorized counsel for the Rosenbergs to raise this issue but were refused. They also inform us that they have eleven more points to present hereafter, although the authorized counsel do not appear to have approved such issues. The Rosenbergs throughout have had able and zealous counsel of their own choice. These attorneys originally thought this point had no merit and perhaps also that it would obscure the better points on which they were endeavoring to procure a hearing here. Of course, after a Justice of this Court had granted Edelman standing to raise the question and indicated that he is impressed by its substantiality, counsel adopted the argument and it became necessary for us to review it....The lawyers who have ably and courageously fought the Rosenbergs' battle throughout then listened at this bar to the newly imported counsel make an argument which plainly implied lack of understanding or zeal on the part of the retained counsel. They

simply had been elbowed out of the control of their case." Continuing, Mr. Justice Jackson stated "....this precedent presents a threat to orderly and responsible representation of accused persons and the right of themselves and their counsel to control their own cases. The lower court refused to accept Edelman's intrusion but by the order in question must accept him as having standing to take part in, or take over, the Rosenberg case. That such disorderly intervention is more likely to prejudice than to help the representation of accused persons in highly publicized cases is self-evident. We discountenance this practice." In discussing the death sentence, Justice Jackson said, "Vacating this stay is not to be construed as indorsing the wisdom or appropriateness to this case of a death sentence. That sentence, however, is permitted by law and, as was previously pointed out, is, therefore, not within this Court's power of revision."

Mr. Justice Clark wrote a separate opinion in which he was joined by the Chief Justice and Mr. Justices Reed, Jackson, Burton and Minton. In his opinion Mr. Justice Clark stated as follows: "Seven times now have the defendants been before this Court. In addition, the Chief Justice, as well as individual Justices, have considered applications by the defendants. The Court of Appeals and the District Court have likewise given careful consideration to even more numerous

applications than has this Court. The defendants were sentenced to death on April 5, 1951. Beginning with our refusal to review the conviction and sentence in October, 1952, each of the Justices has given the most painstaking consideration to the case. In fact, all during the past Term of this Court one or another facet of this litigation occupied the attention of the Court. At a Special Term on June 15, 1953, we denied for the sixth time the defendants' plea. The next day an application was filed contending that the penalty provisions of the Atomic Energy Act governed this prosecution;..... Mr. Justice Douglas, finding that the contention had merit, granted a stay of execution." Mr. Justice Clark continued, "Human lives are at stake; we need not turn this decision on fine points of procedure or a party's technical standing to claim relief. Nor did Mr. Justice Douglas lack the power and, in view of his firm belief that the legal issues tendered him were substantial, he even had the duty to grant a temporary stay. But for me the short answer to the contention that the Atomic Energy Act of 1946 may invalidate defendants' death sentence is that the Atomic Energy Act cannot here apply.... Where Congress by more than one statute proscribes a private course of conduct, the Government may choose to invoke either applicable law;....Nor can the partial overlap of two statutes work a pro tanto repealer of the earlier Act."

Mr. Justice Clark also stated as follows: "Section 10(b)(6) of the Atomic Energy Act itself, moreover, expressly provides that Section 10 'shall not exclude the applicable provisions of any other laws....,' an unmistakable reference to the 1917 Espionage Act. Therefore, this section of the Atomic Energy Act, instead of repealing the penalty provisions of the Espionage Act, in fact, preserves them in undiminished force."

Mr. Justice Clark continued, "In any event, the Government could not have invoked the Atomic Energy Act against these defendants. The crux of the charge alleged overt acts committed in 1944 and 1945, years before the Act went into effect. While some overt acts did, in fact, take place as late as 1950, they related principally to defendants' efforts to avoid detection and prosecution for earlier deeds. Grave doubts of unconstitutional ex post facto criminality would have attended any prosecution under that statute for transmitting atomic secrets before 1946. Since the Atomic Energy Act thus cannot cover the offenses charged, the alleged inconsistency of its penalty provisions with those of the Espionage Act cannot be sustained."

Mr. Justice Clark concluded his opinion by stating, "Our liberty is maintained only so long as justice is secure. To permit our judicial processes to be used to obstruct the

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course of justice destroys our freedom. Over two years ago the Rosenbergs were found guilty by a jury of a grave offense in time of war. Unlike other litigants they have had the attention of this Court seven times; each time their pleas have been denied. Though the penalty is great and our responsibility heavy, our duty is clear." (65-58236-1902)

On June 19, 1953, the Supreme Court of the United States denied a motion for reconsideration of the question of the Court's power to vacate Mr. Justice Douglas's stay order and to hear oral argument.

On June 19, 1953, the defendants' motion for a further stay of execution was denied by the United States Supreme Court.

On June 19, 1953, Mr. Justice Frankfurter turned down Emanuel Bloch's petition for a writ of mandamus to the Circuit Court to grant a stay, pending appeal. Mr. Justice Jackson also viewed this petition and said that he would talk with Bloch but would deny the petition. (65-58236-1845)

On June 19, 1953, following the decision of the Supreme Court, Dwight D. Eisenhower, President of the United States, refused to grant executive clemency to Julius and Ethel Rosenberg. In this refusal, the President stated, "Since its original review proceedings in the Rosenberg case by the Supreme Court of the United States the courts have

considered numerous further proceedings challenging the Rosenbergs' conviction and the sentence imposed. Within the last two days, the Supreme Court, convened in a special session, has again reviewed a further point which one of the justices felt the Rosenbergs should have an opportunity to present. This morning the Supreme Court ruled that there was no substance to this point. I am convinced that the only conclusion to be drawn from a history of this case is that the Rosenbergs have received the benefit of every safeguard which American justice can provide. There is no question in my mind that their original trial and the long series of appeals constitute the fullest measure of justice and due process of law. Throughout the innumerable complications and technicalities of this case, no judge has ever expressed any doubt that they committed most serious acts of espionage. Accordingly, only most extraordinary circumstances would warrant executive intervention in this case. I am not unmindful of the fact that this case has aroused grave concern both here and abroad. In this connection, I can only say that by immeasurably increasing the chances of atomic war the Rosenbergs may have condemned to death tens of millions of innocent people all over the world. The execution of two human beings is a grave matter, but even graver is the thought of the millions of dead whose death may be directly attributable to what these spies have done."

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The President continued, "When democracy's enemies have been judged guilty of a crime as horrible as that of which the Rosenbergs were convicted; when the legal processes of democracy have been marshaled to their maximum strength to protect the lives of convicted spies; when in their most solemn judgment the tribunals of the United States have adjudged them guilty and the sentence just, I will not intervene in this matter."

THE ROSENBERGS' LAST APPEAL

On June 19, 1953, Judges Frank and Swan of the Circuit Court of Appeals affirmed the decision of Judge Kaufman denying a stay of execution earlier that day.

At 8:05 p.m. on June 19, 1953, Julius Rosenberg was executed at Sing Sing Prison, Ossining, New York. At 8:15 p.m. on the same date, Ethel Rosenberg was executed at Sing Sing Prison.

COMMUNIST-STYLE JUSTICE

By contrast with the American concept of justice with its extensive procedure for appeal, the lack of appellate opportunities under Communist-style justice stands out. ("TIME" MAGAZINE, AUGUST 31, 1936 AT PP. 16-17) "Since Stalin," by Borus Shub and Bernard Quint, New York 1951 at P. 71) This is strickly in keeping with the Russian idea of "swift justice." This view was demonstrated in the "trial" of Marshal Tukhacheusky and eight other Red Army leaders in Russia in June, 1938. On June 12, 1938, the Soviet press announced that nine leading generals of the Red Army were tried, convicted and executed within forty-eight hours of their arrest.

In the Russian purge of August, 1936, involving Gregory Zinoviev, former president of the Communist International, and Leon Kamenev, former Politburo members, as well as fourteen others, arrests were made on August 13, 1936, The trial began August 19, 1936. Sentences of death were meted out August 25, 1936. The next day, the "judgment" of the Court was carried out. ("Time" magazine, August 31, 1936 at PP. 16-17)

Only recently the Communist reaffirmed their belief in their concept of "swift justice." It need only be pointed out that exactly fourteen days elapsed between the time that Rudolf Slansky and thirteen other Czechoslovakian Communist leaders went on trial at Prague in November, 1952, and the day that eleven of these defendants were hanged and the other

three sentenced to life imprisonment. The eleven condemned men went to the gallows six days after they were condemned.

("Time" magazine, December 1952)

PART IV

ATTEMPTED MARTYRDOM

After the execution of the Rosenbergs, an attempt was made to elevate the atom-spies to the position of martyrdom. Even in death the NCSJRC did not cease its anti-American propaganda activities.

An item of interest which occurred after the execution of the Rosenbergs appeared in the June 21, 1953, issue of the "New York Journal American." The mothers of the Rosenbergs had returned to their respective apartments in New York City. Representatives of the NCSJRC were on hand at both homes. They were chased away at the home of Mrs. Tessie Greenglass, Ethel's mother.

According to this news report, two women who said they were sent by the Committee attempted to gain admittance but were refused. Outside Mrs. Greenglass' home a crowd of about 50 stood quietly. One man reportedly said, "I've known that couple all of their lives. They are absolutely no good. They broke their mothers' hearts and ruined the lives of their kids. They just want to make martyrs of themselves for the Reds in Russia."

This news account further reported that the mother of Julius Rosenberg had been accompanied to her home on the night of the execution by a girl who announced, "I'm from the National Committee." This girl refused to allow a news photographer to take her picture. A short time thereafter another woman appeared at the door of Mrs. Rosenberg and rapped on the door for admittance saying, "It's Mary, from the Committee." She was admitted. A short time later, another woman appeared at the

Rosenberg door. She stated, "I'm Emily. I was sent here by the Committee." She also gained admittance.

NATIONAL COMMITTEE TO SECURE JUSTICE IN THE ROSENBERG CASE AND THE ROSENBERG FUNERAL

The funeral arrangements for the Rosenbergs were carefully planned by the NCSJRC. The NCSJRC issued invitations to the funeral service, set aside a press section in the chapel for reporters and organized the cortege to the cemetery.

The funeral for the Rosenbergs was held on Sunday, June 21, 1953, in Brooklyn, New York, where approximately 350 persons attended the service within the chapel while an estimated 10,000 persons stood outside on the sun-baked streets listening to the service over a loud-speaker system provided by the committee.

Following a brief religious service, the proceedings became a Communist political attack on the United States, its leaders and its institutions.

In delivering his eulogy, Rabbi Abraham Cronbach, Professor Emeritus of the Hebrew Union College in Cincinnati, Ohio, said, "We must eschew hatred. We must disdain rancor," and in quoting the Hebrew Scripture he said, "Thou shalt not revenge, thou shalt bear no grudge." Of the Government, Rabbi Cronbach said, "Let us give them credit for this much, they did what they thought right." The mourners in the packed funeral chapel hissed the Rabbi for his statements. The tirade at the funeral by Defense Attorney Emanuel H. Bloch was vicious. Bloch said, "I place the murder of the Rosenbergs at the door of President Eisenhower, Attorney General Brownell and J. Edgar Hoover. This

is not American justice. America today is living under the hand of a military dictator garbed in civilian attire."

Following the same line the National Committee of the Communist Party issued a statement on June 23, 1953, signed by William Z. Foster, Elizabeth Gurley Flynn and Pettis Perry charging that the Rosenbergs were "foully murdered by the joined forces of President Eisenhower, Attorney General Brownell and J. Edgar Hoover." In the accusation, the Communist leaders called for a "halt to the Hitlerization of America by the Eisenhower - Brownell John Edgar Hoover forces," who were described as working hand-in-glove with a "swastika-minded" Senator, Joseph McCarthy, and "his goons." The Communist Party statement charged that the Rosenbergs were "brutually murdered by an act of Fascist violence" and described the Rosenberg trial as a mockery of truth and justice. The U.S. Supreme Court, the statement contended, was illegally reconvened to take up the stay of execution granted to the Rosenbergs by Mr. Justice Douglas and "it met with a pistol to its head in the form of impeachment threats, in an atmosphere of a Southern lynch town."

Thus ended the largest Communist-inspired propaganda and pressure campaign in our Nation's history to save two Communist spies. Now that the Rosenbergs are dead, world Communism will probably continue its propaganda campaign to martyrize them as victims of "American Imperialism."

But the Rosenbergs in the eyes of the non-Communist world were guilty of the most heinous crime an individual could commit---

they had betrayed their country's secrets.

Their slavish devotion to their Russian masters made a mockery of the love owed to their parents and children.

In imposing the death sentence, Judge Kaufman declared, "Indeed, the defendants, Julius and Ethel Rosenberg, placed devotion to their cause above their own personal safety and were conscious they were sacrificing their own children should their misdeeds be detected- - - -all of which did not deter them from pursuing their cause. Love for their cause dominated their lives - it was even greater than their love for their children."

AN AGE-OLD COMMUNIST TRICK

The formation of a Communist front to make martyrs of the Rosenbergs was in reality in keeping with the age-old Communist trick of using as a vehicle of Red propaganda some contemporaneous event.

If the American public is now sufficiently aware of this Communist ruse so as to recognize future propaganda efforts of the Communist, then some good has resulted from the Red's devious schemes. Americans in the future will be alerted to handling American justice in the American way without it becoming a Communist propaganda springboard.

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Tolson
Ladd
Nichols
Belmont
Clegg
Glavin
Harbo
Rosen
Tracy
Gearty
Mohr
Winterrowd
Tele. Room
Holloman
Sizoo
Miss Gandy

LITRENTO

Douglas Impeachment Move Attacked in One-Hour Hearing

Walter Says Wheeler's Motion Helps Reds; Turpitude Charge Dropped

A-1

By Allen Drury

A House judiciary subcommittee adjourned today after hearing only one hour of testimony by Representative Wheeler, Democrat, of Georgia, on his resolution to impeach Supreme Court Justice Douglas.

Chairman Graham, Republican, of Pennsylvania, said the subcommittee probably would report next Tuesday to the full Judiciary Committee.

The sudden end came after Mr. Wheeler was told by a fellow House member that his attempt to impeach Justice Douglas gave the Communists a major propaganda weapon at the time of the execution of atom spies Julius and Ethel Rosenberg.

The Georgia Congressman introduced an impeachment resolution after Justice Douglas granted a stay of execution to the Rosenbergs.

Mr. Wheeler defended his resolution at the hearing, but Representative Walter, Democrat, of Pennsylvania and other committee members were critical.

Mr. Wheeler began his statement by backing away from a charge of "moral turpitude" which he made against Justice Douglas in a House speech yesterday. At that time, he said the justice had been involved in a divorce case in Portland, Oreg. Before the subcommittee today, he said he had based his statement on material he read in the newspapers. He said he considered it "unfortunate that the least serious charge I held against Justice Douglas got the most play."

"The implication carried in the

(See DOUGLAS, Page A-3.)

William O.

Of 3-1

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Wash. Post
Wash. News
Wash. Star A-1
N.Y. Herald Tribune
N.Y. Mirror

Date: JUN 30 1953

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Douglas

(Continued From First Page.)

newspaper story was false," Mr. Wheeler said. "The divorce proceedings in Portland did not involve Justice Douglas."

"Did you look into the charge yourself?" Mr. Walter asked.

"No," Mr. Wheeler replied.

"Isn't that a rather loose way of attacking the integrity of a justice of the Supreme Court?" Mr. Walter demanded.

Mr. Wheeler said that to him the newspaper accounts indicated something which might tend to bring discredit on the court.

"You realize," said Subcommittee Chairman Graham, Republican, of Pennsylvania, "that what you have quoted up to this moment would be mere hearsay in any court of law."

Mr. Wheeler said he thought the charge of 'treason" might stand up better, but on this point he again ran into trouble from the committee.

Mr. Wheeler said he thought Justice Douglas had made statements similar to those "put out by the propaganda artists of the Kremlin." It was then that Mr. Walter told him that he would be surprised at the propaganda value to the Communists of the impeachment proceedings at the time the Rosenbergs were awaiting execution.

Mr. Wheeler said he felt Justice Douglas' granting of a stay of execution was "an impulsive yielding to a clamorous partisan group). He asserted that the justice delivered a printed statement on the case only one day after he had heard the appeal by the Rosenberg lawyers. He said he did not want to imply there was anything wrong about this, but it looked peculiar to him.

"If your interpretation is correct that would be malpractice, wouldn't it?" Mr. Walter asked.

Mr. Wheeler said he assumed so. Mr. Walter pointed out that the framers of the Constitution had rejected malpractice as a ground for removing a judge. Instead, he said, they granted judges tenure "during good behavior."

"Unless you have more than you presented to the House," Mr. Walter said, "I frankly believe you haven't made out a case which I would feel justified in presenting to the House."

Mr. Wheeler conceded that under past definitions of treason, Justice Douglas' actions might not be encompassed, but that if treason were to be interpreted "in a liberal fashion" they might be.

Asked to Cite Overt Act.

"Can you cite any overt action he has committed which would indicate treasonable activity?" Mr. Graham asked. Mr. Wheeler said he didn't think so unless the definition of treason could be "stretched."

"We believe in the right of free speech and the right of a justice of the Supreme Court to express himself," Mr. Graham said, "Where has he said anything treasonable?"

Mr. Wheeler explained that he thought Mr. Douglas as a Supreme Court justice should be "a little more careful about providing weapons for psychological warfare," than if he were a private citizen.

When Mr. Wheeler cited a speech Justice Douglas made in 1951 critical of some aspects of American foreign policy, Mr. Walter remarked bluntly:

"If everyobdy who held those views were incarcerated, the population would be sadly depleted. It seems to me that has a very familiar ring."

Depth of Charges Mentioned.

Although subcommittee members did not say what action they would recommend, Mr. Graham at one point in the hearing remarked to Mr. Wheeler:

"I'm afraid that, as a layman, you do not fully comprehend the depth of these charges in the legal sense that we, as lawyers, know and understand."

Mr. Wheeler concluded his testimony by saying that, whether or not the subcommittee recommended impeachment, he believed his resolution would still have served a good purpose. He said that if it did no more than focus attention on the need for tightening up the law "it will have accomplished something."

Mr. Walter remarked that the committe's files are full of impeachment proposals, mostly by unsuccessful litigants who think judges ought to be ousted.

"This isn't a novel experience for us," he remarked dryly.

Other Specifications.

In his House speech yesterday, Mr. Wheeler listed these other specifications to support his charge of high crimes and misdemeanors warranting impeachment:

1. Conduct unbecoming an associate justice of the court.
2. Action tending to bring the court into disrepute.
3. Public statements by Mr. Douglas indicating he had prejudged cases.
4. Conspiracy.

On the score of moral turpitude, Mr. Wheeler asked the House to subpoena records of a divorce case in Portland, Oreg., in which he said Mr. Douglas figured.

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No. 3

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NEW YORK	OCT 18 1955	7,28;8/4,24-9/19-30/55	ALEXANDER M. GANSKY lrb

TITLE	CHARACTER OF CASE
AMERICAN LITHUANIAN WORKERS LITERARY ASSOCIATION, aka: Amerikos Lietuviu Darbininku Literaturos Draugija, ALDLD, ALD	INTERNAL SECURITY - R & LITHUANIA INTERNAL SECURITY ACT OF 1950

SUMMARY REPORT
SUPPLEMENTAL PROSECUTIVE

The American Lithuanian Workers Literary Association is substantially directed, dominated, or controlled by the Communist Party, USA, a Communist action organization so designated by the Subversive Activities Control Board on and is primarily operated for the purpose of giving aid and support to the Communist Party.

The American Lithuanian Workers Literary Association was in existence on or subsequent to September 23, 1950, and has failed to register with the Attorney General as provided in Section 7 (B) of the Internal Security Act of 1950. [redacted]

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ALDLD

The April-May-June, 1954, issue of "Sviesa" on page 42-46, contains an article captioned: "For Women About Women" by A. BIMBA. N.Y.

In this article the following is stated on page 46:

"...and finally like in the darkness of the break of day, in the gloomy night of our life, ETHEL ROSENBERG shone in the night. This young mother of two children went to death with her head raised high for her ideas, her ideals. There will come a time, when there will be no city in America which will not have a statue of ETHEL ROSENBERG in a square." N.Y.

Exhibit Number 40:
"Sviesa" issue of April-May-June, 1954
pages 42-46, article: "For Women About Women" by A. BIMBA

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CP Line

"The end of the ROSENBERG case is not yet. The innocent when legally murdered are sometimes given a strangely powerful force that in the fullness of time helps move millions into understanding and action."

Exhibit Number 41:
"Masses and Mainstream",
September, 1954, page 50,
article "The Unconquerable"
by RICHARD O. BOYER N.Y.

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