

THE JUDGMENT

OF

Julius and Ethel Rosenberg

By John Wexley

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ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 10/30/81 BY SP-800/mc
#80,115

1955



CAMERON & KAHN, NEW YORK

Distributed by CAMERON ASSOCIATES, 100 W. 23RD ST., NEW YORK 11, N. Y.

20757-A

TO THOSE WHO WALKED

THE JUDGMENT OF JULIUS AND ETHEL ROSENBERG

Prologue

June 19, 1953

Early in January, 1953 thousands of men and women traveled to Washington, D. C. from all parts of the United States to picket the White House during the clemency campaign in behalf of the Rosenbergs.

It was bitterly cold, but the marchers continued their vigil throughout the night, changing shifts every two hours as they had done for many days and nights.

While watching the picket line, this writer asked a Negro policeman assigned there what he thought of the effort. He replied:

"All I can say, sir, if I was waiting in a death cell, I would sure like to have someone walk for me."

"To remain silent when your neighbor is unjustly persecuted is cowardice; to speak out boldly against injustice, when you are one against many, is the highest patriotism."

— ABRAHAM LINCOLN

*"God offers to every
Truth and Repose.
Take which you wish
both."*

IN THIS work it will be seen that I owe a special tribute to Emanuel Bloch, the attorney for Julius and Ethel Rosenberg. His untimely death on January 30, 1954, was mourned throughout the world. It is difficult to assess all of the reasons which led to the creation of this book, but there is little doubt that among the most important was the example of his magnificent courage in the epic fight he made in behalf of truth and justice in the case of the Rosenbergs.

With regard to the research which the preparation of this book entailed, I should like to express the warmest appreciation to Pauline Schindler for her unstinting devotion and effort. And for her help in compiling my research files, thanks to Ruth Colborn Grumbine.

To the secretaries who patiently and efficiently typed the many outlines and drafts, my deep gratitude. And to the copy editors, proofreaders, compositors and printers who saw the book through to the printed page with such uncommon zeal and interest, my appreciation.

Above all, I should like to pay a salute to my wife, Katharine, for all she did to make this book possible. There was not a moment she was not involved in its creation. For her fortitude, her faith, her painstaking criticism, her uncompromising insistence on simplicity, my debt to her is very great.

J. V.

Synopsis of the Government's Case

f writing this book can be simply stated. It is to make
th about the Rosenberg case. I believe I have been
accurate in bringing the hitherto hidden and sup-
to the light of day. At all times I have used documen-
able sources. These will be found within the text, in
in appendix references. The Chronology of Events
siderable aid in following not only the legal sequence
also the political frame of reference in which it took

ysis, which has involved many thousands of pages of
and appeals, there was, as always, the difficult problem
in order to present the Government's case in the most
I have followed an objective summary of the evidence
Columbia Law Review, which is quoted in full in the ap-
pendixes. Hence every important point in the case, whether
unfavorable to the defendants, is fully presented.

ere is provided a synopsis of the Government's case, for
who may wish to orient themselves beforehand with the
Law Review summary and the official charges against the
and Sobell, there is a special index following the synopsis.
ete court record is available at the National Rosenberg-
Committee, 1050 Sixth Avenue, New York City.

re about precautions, it is impossible for this writer to
neutrality after having spent three years in analyzing
the face of the known facts, one can no more be neutral
than one can abstain from moral judgment con-
fronted with recognizable evil. In this respect I take my stand with
the philosopher and historian, Professor Gaetano Salvemini
of Harvard, who has prefaced his own recent book
with the following observation:

neutrality is either a delusion of the simple-minded, a
the opportunist, or the boast of the dishonest. No-
one is entitled to be unbiased towards truth or falsehood."*

J. W.

World War II, Doubleday, New York, 1954.

¶ That in 1944 Julius Rosenberg and his wife, Ethel, persuaded her
brother, David Greenglass, and his wife, Ruth, to enter a conspiracy
to commit espionage by transmitting atomic secrets to the Soviet
Union. That the Greenglasses delivered such secrets to the Rosenbergs
in 1945. That during 1946-1949 Julius Rosenberg told his brother-
in-law of other espionage he and his spy ring had committed.

¶ That included in the spy ring were two former college classmates
of Julius Rosenberg, Max Elitcher and Morton Sobell, but since their
part in the conspiracy was not connected to atomic espionage, neither
was known as a co-conspirator to the Greenglasses.

¶ That in 1945 Julius Rosenberg arranged by unknown means with
the New York Soviet Vice Consul, Anatoli Yakovlev, to send a courier
to the Greenglasses in Albuquerque, New Mexico, to pick up atomic
information. That Yakovlev sent Harry Gold for this purpose, the
latter a self-styled "American partner" of Dr. Klaus Fuchs.

¶ That in 1950 after Fuchs, the German-born British atomic sci-
entist, was arrested in England, and after the FBI had subsequently
arrested Gold in Philadelphia, the latter had implicated David Green-
glass. That upon Greenglass' arrest he had confessed and implicated
his sister and brother-in-law, as well as his own wife, Ruth.

¶ That the Rosenbergs were subsequently arrested, but that in the
meantime the FBI had obtained from Max Elitcher a confession im-
plicating both Julius Rosenberg and Morton Sobell. That the latter,
known to be on a trip to Mexico with his family, was arrested in Texas
after the Mexican authorities had "deported" him. That the Soviet
official, Yakovlev, could not be apprehended since he and his family
had returned to the Soviet Union in 1946.

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<i>Columbia Law Review</i> summary re the Rosenbergs	326-328

an issue of guilt or innocence? Had the
Were the Rosenbergs legally executed or
vims of the "Cold War" and the convenien
War? Were their deaths to be a symbolic
lence all liberals and dissenters?

Perhaps one did not quite dare to test the
trusted friends, yet one could not help thin
try gained in shocking the sensibilities, in
great nations? And how was it that the fat
ple had such a tremendous "global effect"
doubts" which disturbed so many millions
dreds of thousands here? Who were these
they come to involve and destroy their ow
were this weird Dr. Klaus Fuchs and this str
who had claimed to be his confederate? Ha
lar to so many others perpetrated in perio
so, why was it so difficult to discern the
any of them present and recognizable in tl
Could one get to the underlying facts and
was the truth — or as much of it as one coul
and how did it all start?

THERE was a great unease throughout America that night follow-
ing the execution of the Rosenbergs. No one could estimate how many
were happy about it, how many indifferent, and how many felt a ter-
rible thing had been done. But there could be no question that a vast
number of people experienced the most profound disquiet. Even
though they were constantly assured that the "A-spies" had been
fairly tried and justly sentenced, two perplexing questions continued
to gnaw at mind and heart:

If the Rosenbergs were really guilty, if no doubt whatsoever ex-
isted that they had received their full measure of justice, then why
had the conscience of the world been so deeply aroused?

And if the Rosenbergs were truly innocent, why had they been put
to death?

One could not airily dismiss as Communist propagandists men like
Dr. Harold Urey, the Nobel Prize physicist, or Rabbi Abba Hillel
Silver, friend of President Eisenhower. Such men could not be
brushed aside as dupes or victims of "brain-washing." Nor could
one ignore the astonishing revelation made by Justice Hugo Black
that the Supreme Court "had never reviewed this trial record and
therefore never affirmed the fairness of this trial."

Why, then, did so many Americans continue to say that the
Rosenbergs had been accorded all due process of law? Why had the
Supreme Court been convened into extraordinary session with such
desperate haste to dispose of a case which Justice Frankfurter con-
sidered so vital that he declared "the magnitude of the issue called
for the most prolonged consideration"?

Thus the two initial questions produced many more: Was it really

ly been a fair one?
by the political vic-
boats of the Korean
g to terrify and si-

tions except among
What had our coun-
ting the respect of
se two obscure peo-
were these "grave
and so many hun-
asses and how had
and kin? And who
eature Harry Gold,
en a frame-up simi-
ational hysteria? If
r symptoms? Were
enberg-Sobell case?
at the truth? What
Where, and when,

PART ONE

The Events Preceding the Trial

January-December, 1950

*"Doubts are more cruel
than the worst of truths."
— MOLIERE*

PART TWO

The Empty Ritual

January-April, 1951

*"It is error only and not truth
that shrinks from inquiry."
— BENJAMIN FRANKLIN*

Epilogue

June 19, 1953

*"The last moment belongs to us — that agony
is our triumph."*

— BARTOLOMEO VANZETTI

By John Wexley

PLAYS

The Last Mile
They Shall Not Die
Steel
Running Dogs

SCREENPLAYS

City for Conquest
Hangmen Also Die
Cornered
The Long Night
The Amazing Dr. Cl
Angels With Dirty Fa
Confessions of a Nazi

O. HENRY MEMOR PRIZE STORIES OF

Southern Highway 5

•In collaboration:

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Chronology of Events

xii

1945

Aug. 6

First atomic bomb dropped on Hiroshima; dead: 78,150.

Aug. 9

Second atomic bomb dropped on Nagasaki; dead: 73,884.

Nov. 13 to 22

ported charges of
berg.

Trial of
cution: t
Roy M. G.
Bentley
term of

1949

Sept. 23

President Truman announced that an atomic explosion had taken place in the Soviet Union.

Dec. 9

Harry G.
McGrath

1950

Feb. 3

Dr. Klaus Fuchs, German-born British nuclear physicist, arrested in England on the basis of a voluntary confession that he had transmitted atomic information to the Soviet Union.

1951

Mar. 6-29

Trial of
man
David G.
Ruth G.
berg and

Mar. 1

Fuchs tried and sentenced to fourteen years.

May 23

Harry Gold, a hospital laboratory chemist in Philadelphia, arrested on basis of a voluntary confession that he had been the courier in the United States in 1944-45 between Fuchs and a Russian Vice Consul, Yakovlev, who had returned to Russia in 1946. (Yakovlev later tried in absentia at the Rosenberg-Sobell trial.)

Apr. 5

Ethel and
chairman
of M. S.

Apr. 6

David G.

June 15

David Greenglass, a machinist, formerly a soldier employed at the Los Alamos Atomic Project, arrested for having been an accomplice of Gold in 1945.

1952

Feb. 25

Convicted
Circuit

June 16

Julius Rosenberg, owner of a small machine shop in New York City, brother-in-law and former business partner of Greenglass, questioned by FBI and released the same day.

Oct. 13

Supreme
dissent

June 25

Outbreak of the Korean War.

Nov. 21

Judge
Jan. 12

July 17

Julius Rosenberg arrested on charges of having conspired to commit espionage with Greenglass and Gold in 1944-45.

Nov. 27

Mortimer
City

July 29

Abraham Brothman, a chemical engineer and former employer of Gold, arrested on charges that he and Gold had conspired to obstruct justice by lying to a Grand Jury during an investigation in 1947.

Dec. 10

Motion
perjury
Motion

Aug. 11

Ethel Rosenberg, wife of Julius and sister of David Greenglass, arrested on same charges as her husband.

Dec. 30

Motion
on grounds
unpre-
ment

Aug. 18

Morton Sobell, former college classmate of Julius Rosenberg, while on a vacation trip to Mexico City with wife and children, forcibly abducted by Mexican secret police and "de-

Dec. 31

Court
hearing

CHRONOLOGY OF EVENTS

Texas border, arrested by the FBI on
inspired to commit espionage with Rosen-

before Judge Irving R. Kaufman. Prose-
y Irving H. Saypol, assisted chiefly by
ipal witnesses: Harry Gold and Elizabeth
convicted and sentenced to maximum
on Nov. 28.

ced in Philadelphia by Judge James P.
y year.

s and Sobell before Judge Irving R. Kauf-
Saypol, with Roy Cohn in full charge of
testimony. Principal witnesses: David and
Max Elitcher, a former classmate of Rosen-
Gold, and Bentley. Verdict: Guilty.

osenberg sentenced to death in the electric
ifman, with date of execution set for week
orton Sobell sentenced to thirty years.

sentenced to fifteen years.

Rosenbergs and Sobell affirmed by U.S.
ppeals. (Judges Swan, Chase, Frank)

clined to review the case, Justice Black

es second date of execution for week of

sferred from West Street jail in New York

ng for a new trial based on evidence of
trial argued before Judge Sylvester Ryan.
denied; stay of execution denied.

sentence argued before Judge Kaufman
ences were "cruel and excessive" and
ce charges were not treason and indict-
de "intent to injure the U.S."

ffirms Judge Ryan's denial of motion for
rial.

CHRONOLOGY OF EVENTS

1953

Jan. 2

Jan. 5

Jan. 10

Jan. 20

Feb. 11

Feb. 13

Feb. 16

Feb. 17

Feb. 22

May 25

May 29

June 8

June 10

Judge Kaufman denies motion for reduction of sentence.

Motion for stay of execution denied by Court of Appeals.

Petition for Executive Clemency submitted to Truman; ex-
ecutions stayed until five days after determination by Presi-
dent.

Truman leaves office, and petition for clemency automatically
passes to Eisenhower.

Clemency appeals in U.S. attain unprecedented height of
three million letters and telegrams to White House.

Direct appeals by Dr. Albert Einstein, Dr. Harold C. Urey,
Chief Justice James Wolfe (Utah Supreme Court), Rabbi
Hillel Silver, 3,000 Protestant ministers, etc.

Eisenhower refuses clemency.

Disclosures that Pope Pius XII intervened for clemency in
December of 1952, but that his appeal to White House was
suppressed by Attorney General James P. McGranery. Pope
Pius renews appeal for clemency.

Judge Kaufman sets third execution date for week of
March 9.

Court of Appeals headed by Judge Learned Hand stays exe-
cutions pending action by the Supreme Court.

New York Times European survey reports all France unani-
mous for clemency. Rosenberg case "TOP ISSUE IN FRANCE."
Appeals for clemency pour in from clergy, statesmen, scien-
tists, writers from all countries in the world.

Supreme Court declines for second time to review case, Jus-
tices Black and Douglas now dissenting.

Judge Kaufman sets fourth execution date for week of
June 15.

Motion for a hearing for a new trial argued before Judge
Kaufman on basis of newly discovered evidence proving per-
jury and subornation of perjury by the prosecution. Kauf-
man refuses to grant hearing that same afternoon; refuses
stay of execution.

Motion for new trial argued before Circuit Court of Appeals.
Kaufman decision affirmed and stay of execution denied.

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xiv

June 15

June 16

June 17

June 18

June 19

June 20

CHRONOLOGY OF EVENTS

Supreme Court declines for the third time to review the ca
and refuses stay of execution. Vote is now 5 to 4.

New appeal, based on grounds that Atomic Energy Act of
1946 should have applied to the case, filed with Justice Doug-
las. Second clemency petition submitted to Eisenhower.

Douglas grants stay of execution stating that substantial ques-
tion is involved whether defendants were correctly tried un-
der the Espionage Act of 1917.

Clemency appeals to President Eisenhower from abroad b
hundreds of organizations representing tens of millions
England, Germany, Italy, France, etc.

Mounting protests at many U.S. embassies by tens of
sands who were held back by police cordons. Direct
to Eisenhower from President Auriol of France, E.
Herriot, former Premier Faure, etc.

Supreme Court called into extraordinary and unprec
session. Justices recalled from their vacations to hear
ment on Douglas stay regarding applicability of Atom
ergy Act.

Execution of the Rosenbergs automatically delayed pend
Supreme Court decision.

Supreme Court vacates Douglas stay by vote of 6 to 3 (Fra
further now joining Black and Douglas). President Ei
hower rejects second clemency plea.

Execution of the Rosenbergs, scheduled for 11 P.M.
night, moved up before sundown to avoid desecration of
Sabbath.

Union Square meeting of 10,000 people to protest the e
cution of the Rosenbergs. Simultaneously, in all capit
the world, hundreds of thousands register dismay, shock
last-minute protest.

Julius Rosenberg executed at 8:02 P.M.

Ethel Rosenberg executed at 8:08 P.M.

Published text of Justice Black's dissent discloses tha
Supreme Court "had never reviewed the record of the
and therefore never affirmed the fairness of this trial."

PART ONE

20743

The Events Preceding the Trial

January-December, 1950

*"Doubts are more cruel
than the worst of truths."*
— MOLIERE

PART ONE

The Events Preceding the Trial

June-December 1950

*"Falsehood flies a
so that when me
late; the jest is
effect..."*

*"Doubts are more cruel
than the worst of truths."
— MOLIERE*

THE history of man's inhumanity to
examples of the device of frame-up, |
stress and tension. Perhaps the instar
is that described in the Gospels regardi
against Jesus when he was accused of
the people."*

It was not the first time it had happ
was to happen again and again in the
lowed. In Spain there was the dread li
Europe the stench of burning human
heretics condemned to death on false
ican colonies the tactic was utilized b
frame-ups which took place under the
especially bitter for the Jeffersonians,
with revolutionary France, the coun
earlier had aided the cause of the A
France toward the turn of the centur
Captain Dreyfus, designed to conceal
and the betrayal of the Republic into

In the United States, at this periot
of union leaders became the stock de
twelve-hour day and the anti-strike in

In Chicago there was the Haymark
of a police-provoked riot. A grand
business men swiftly indicted the city's
Parsons and seven others. Despite th
four of the eight were hanged. In late
became famous for his exposure of tl
the two surviving victims.†

*"He stirs up the people, teaching throug
†Harry Barnard, *Eagle Forgotten*, Bohls-

Frame-Up

and truth comes limping after it,
come to be undeceived it is too
never, and the tale has had its

— Jonathan Swift

man provides all too many
particularly in times of social
ce most universally deplored
ing the testimony brought
'blasphemy' and 'perverting

ned to a man of truth and it
two thousand years that fol-
quisition. All over the rest of
flesh arose from the pyres of
estimony. Even in the Amer-
theocrats of Salem. The
Alien and Sedition Acts were
persecuted for their sympathy
ry which only a short time
merican Revolution. And in
y, there was the frame-up of
he ineptitude of the military
the hands of the monarchists.
of our history, the frame-up
ice to retain child labor, the
uncti

t Square frame-up, the result
ary composed of prosperous
eading voices of labor, Albert
r protestations of innocence,
years Governor John Altgeld
frame-up and his freeing of

out all Judea. . . . Luke xxiii: 5.
errill, New York, 1935.

Just previous to American entry into World War I there was the frame-up of Tom Mooney, later officially exposed as "One of the dirtiest jobs ever put over . . . a contemptible piece of work." Such was the statement of the sentencing judge, Franklin A. Griffin, when he became convinced of the extent of the frame-up. In later years, he stated:

"When I look back upon the trial now, it seems to me that we must have been slightly crazed by the hysteria of the time. . . ."

Each celebrated case of frame-up can be said to be a touchstone to its own particular period of history. The framing of Negroes on trumped-up charges is well known as a favorite diversionary tactic. Its most notable example was the Scottsboro case in the depression years of the early 30's. That of Sacco and Vanzetti is also well known, but a brief mention of the atmosphere which engendered it demonstrates the classic pattern. It came soon after the convulsive events of World War I and the Russian revolution, and was integrally bound up with the notorious Palmer raids of the 1920's. Felix Frankfurter, then a Harvard law professor, instantly recognized the technique:

"They were convicted by the atmosphere and not by the evidence."†

Such, then, is the briefest summary of the history of frame-up. In one form or another, it is a technique as old as human society. Hence, there arise the plaguing questions: Why is it so difficult to recognize clearly at the time it is taking place — before it is too late — that a frame-up is in progress? And why does it ordinarily take so many years for people to become undeceived?

First, there is the political atmosphere which generates, and at the same time cloaks, the frame-up. Since it usually occurs in the midst of, before or after a war, the public becomes easy prey to patrioteering and official endorsement. Fear of the external enemy is whipped up by the creation of an internal "enemy" and the hunt for so-called saboteurs, spies and traitors becomes daily fare.

Coupled with this is the fact that in such an atmosphere those in control of the great media of propaganda are in sympathy with these objectives. Hence the result is disastrous to any detached reasoning. The paralysis of intimidation and self-intimidation, the re-

*Lillian Symes, "Our American Dreyfus Case," *Harper's Magazine*, May, 1931.

†Felix Frankfurter, *The Case of Sacco and Vanzetti*, Academic Reprints, Stanford, Calif., 1954.

luctance to "stick one's neck out," the dread of becoming identified with the "verboden" ideas of the victim, and the threat of social ostracism and economic ruin all operate toward the concealment of the frame-up.

Second, even when the true nature of the frame-up becomes finally revealed, most people are simply unwilling to believe that our police, prosecutors and judges can be so wicked as to perpetrate or condone such outrages. In periods of national insecurity there is an almost childlike need to retain faith in those whom we have entrusted with high office. It is so much more expedient to say "All is for the best in this best of all possible worlds."

Third, and most important from the viewpoint of this work, there is the inability of people to accept the reality of frame-up. The moral, civilized mind simply cannot conceive of witnesses so depraved that they will deliberately provide false testimony, or that prosecutors will knowingly encourage them to do so, no matter how many such cases have been exposed.*

It is a curious thing that we can see the subject of frame-up used as the prevailing theme in popular fiction, in the movies and over radio and television, but we refuse to recognize it when we see it in real life. And rightly so — because, with the stark spectacle of real people actually being imprisoned or put to death, we tend to demand more convincing proof than we receive in those oversimplified fictional presentations.

The common tendency is to view the flat charge of frame-up as too "pat" an explanation. Government officials and their witnesses just could not be that evil; it simply could not be that cut and dried. Furthermore, it is difficult to believe that prosecuting officials would risk their careers, or be so conscienceless as to scheme up a "frame" against a totally innocent person.

And again rightly so! Because the truth is that the technique of modern frame-up is not "pat," not cut and dried, and certainly cannot be explained in terms of black and white. Quite the contrary. The structure of frame-up is exceedingly complex and made up of

*A most notable example is that of the "honest cattleman," Frank Oxman, the chief witness against Tom Mooney, who testified to having been present in San Francisco at the time of the crime. Later it was proven by documentary evidence that Oxman was in a small town some four hours distant from San Francisco by train!

"Only Oxman's testimony carried any weight with me," Judge Griffin later declared. "We did not know then, of course, that he was lying, but the Prosecution must have known." (Lillian Symes, *op. cit.* See also Ernest Jerome Hopkins, *The Mooney Case*, Chap. 12, Harcourt, Brace, New York, 1932.)

many interlocking parts and all of these must be studied in all their multiple shadings.

To best approach the anatomy of frame-up, let us visualize an intricate jigsaw puzzle. In dissecting or taking it apart piece by piece, we find the syndrome of modern frame-up is composed largely of the following elements:

Tentative and reluctant half-lies: At first the prospective accusing witness will not state flatly that the defendant conspired to commit espionage, but will put it on a basis that there existed a desire to aid the Soviet Union as an ally. As the various stages of interrogation proceed, what may have been partial or full truth develops into half-hearted perjury. On the stand, the witness avoids mentioning any actual act of espionage, but says reluctantly "We discussed this matter of espionage" or "this espionage business."

Coincidences and tenuous circumstantial evidence: These are "blown up" to provide links in the chain of guilt. The defendant, for example, owns a 35-mm. camera, as do millions of other Americans. At the trial this becomes circumstantial evidence that he used it to photograph stolen secret plans, even though no one ever saw him steal them or photograph them.

Half-truths and full truths: There is a deceptive ring of truth when innocent incidents are connected to acts of conspiracy. Normal visits and conversations between friends and relatives are described in fine detail. However, they are then extended into conspiratorial acts by the addition of testimony that these visits or conversations were arranged for the purpose of delivery of secrets.

Since such inculcating conversations take place only between the witness and the accused, or between "four eyes," as the expression goes, it is quite impossible for the accused to produce contradicting witnesses. As a result, his defense is reduced to mere denials: "I did not say that. . . I never said any such thing. . ." Thus, it is the word of the Government's witness against that of the defendant. In a politically charged atmosphere the jury is generally inclined to accept the word of the witness appearing on behalf of the Government.

Elaboration and embroidery: Here, too, there is a basis of full truth and innocent incidents, but a careful insertion is made here and there so that the incident appears conspiratorial. The accusing witness, for example, tells of an incident when he conversed with the defendant and a third party. However, we are told it was after the third party left that the defendant related certain conspiratorial acts. Since the third party cannot refute what happened in his absence, the defendant cannot disprove the incident. In fact, when he admits that

the third party was present during the incident, the defendant's credibility is given to the accusation.

Nuances, insinuations and innuendoes: The prospective witness, ample, asks the accusing witness: Did you see the defendant steal secret documents in his briefcase? The witness replies that while he did not see the defendant, he did notice the defendant taking his briefcase. The jury's imagination completes the picture of a criminal act, even though no such act was committed.

The technique of the carefully directed question: The prospective witness is told about a narrow incident. Does he know anything about it? Doesn't he remember it? No? Well, let's go back to the beginning and come to mind.

Months go by. Finally the witness is brought back to the prosecutor who is questioning him on a matter extremely important for the Government. "Remembered," the witness is almost certain to answer accurately. If, on cross-examination, he failed to remember the name or incident, the prosecutor implies that he forgot it and that it is a matter of common knowledge known as the technique of the "bela."

"Piling it on" or the process of adding details: The prospective accusing witness is being briefed and at the trial his testimony is gradually built up. The witness pleases his interrogators. In each successive conference, some of these are outgrowths of the previous conferences. Some, when first mentioned, are developed in subsequent conferences. Some are the witness' own compulsion to make "a better story."

Prolonged and exhaustive interrogation: This process of obtaining testimony by repeated questioning, digging and digging and digging. The prospective witness, terrified lest he be produced or pressured into a number of false statements, serves to entrap him more deeply, unhappily.

Self-entrapment: By agreeing to testify, the prospective witness automatically becomes an accomplice, and thereby makes himself vulnerable to prosecution.

part of the incident, the prosecutor, for example, see the defendant a defense plant? The see such stealing, he se to work each day. re of the insinuated scribed.

nt or suggestion: The ce, a date, or a certain t is rather important. out it — maybe it will

that the FBI agent or the name or incident ase. When it is finally hat his recollection is ed to explain why he ginally, he merely re- is mind later. This is nory."

he "story": While the ed for his appearance o. If he is under arrest rial, is disposed to nference he adds new mentioned in previous e encouraged and de- the result of the wit- ry."

in the Rosenberg case ly called "painstaking is process the prospec- or other crimes, is in- ements, each of which ly he goes "the whole

onspiring with the ac- creates of himself an ble to much more seri-

In the Rosenberg case the prosecution's first witness, Max Elitcher, feared arrest for perjury committed in connection with a false loyalty oath signed while employed by a Government agency. By testifying against his best friend, Morton Sobell, he also involved himself as an accomplice in the crime of conspiracy to commit espionage. As a result, an indictment for this "confessed" espionage hangs over his head for the rest of his life, since in a capital offense the statute of limitations does not apply. The same holds true for Ruth Greenglass, who, in exchange for supporting her husband's "confession," went scot-free.

The providing of "motive" and "intent": These are obtained by having the accusing witness remember political discussions, some of which may be honestly recalled, whereas others are "tailored" to make the crime fit the charges. For example, the accusing witness is briefed on the following: Did not the accused frequently discuss the economic progress made in the Soviet Union? Did not the accused discuss the advantages of socialism over capitalism? Was there any preference indicated? How did the accused feel about the opening of the Second Front on D-Day? In this way a picture is gradually painted of the accused's readiness as a "dedicated Communist" to aid the Soviet Union even in espionage — and the prosecution has successfully established "motive."

And so, with these elements (separate and overlapping) as well as many more which will be later illustrated, the frame-up gradually takes shape. Where the puzzle has a "hole" and needs another interlocking part, another insertion is furnished. Finally a judicious amount of color and intrigue is applied to liven up the picture, and frequently these additions, too, are based on truth. For example, David Greenglass had a poor handwriting. Therefore his secret reports had to be typed up. Ethel Rosenberg had a portable typewriter. Therefore, at the trial, it is she who "struck the keys, blow by blow, against her own country in the interests of the Soviets." Later we will see that it is unexplained why Greenglass' reports, given to Harry Gold, remained untyped despite the fact that Greenglass' wife, Ruth, was a professional typist.

In an over-all sense the modern frame-up does *not* consist of 100 per cent fabrication made of whole cloth or out-and-out perjury, but, on the contrary, the various forms of perjury are well interwoven with actuality and truth. It is precisely for this reason that the uninformed public becomes deceived into accepting *all* of it as truth.

Actual collusion, or the core of the frame-up: It must be pointed out, however, that at one point or another actual collusion becomes

a necessity in the preparation of evidence and exhibits. Generally, where the core of the prosecution's case lies, there one can detect deliberate fabrication. The heart of the Government's case against the Rosenbergs lay in David Greenglass' claims that he delivered sketches of atomic secrets to Julius Rosenberg and Harry Gold. Since this testimony was totally uncorroborated by any independent witness, the prosecution had Greenglass duplicate "copies" of these alleged sketches, later introduced as the Government's most important exhibits. Greenglass swore that he had prepared these "copies" from memory and with no assistance of any kind.

It will be shown by official records in a later chapter that Greenglass and Gold were lodged together for many months on the "eleventh floor" of the Tombs (the New York City prison), where they had complete freedom to confer because of the dormitory arrangement instead of cells. As we shall see later, there is reason to believe that means were provided for Greenglass to copy the sketches from books and drawings, and receive instructions and coaching from Gold. Only thus was it possible for Greenglass, an ordinary machinist without the slightest scientific education, to have prepared these sketches.

It should be noted that it was none other than Roy M. Cohn who was the prosecutor in full charge of Greenglass' testimony. In view of the recent sensational charges made in open court by Harvey Matusow concerning his false testimony fabricated at the instigation of and with the collaboration of Roy Cohn, perhaps it is not as difficult today to believe in this crucial aspect of the political frame-up.*

Important also in the technique of frame-up is that the coercion exerted upon each witness is not performed by any one person nor is it ordered by a single mastermind. It is exerted by a variety of persons as well as by the political atmospheric pressure. The "Third Degree" is now outmoded. Today, it is no longer the glaring light, the circle of snarling detectives and the rubber hose, but rather the polite and friendly interrogation during which the tactic of the repetitive suggestion is the dominant feature. ("Didn't Julius Rosenberg tell you this and this . . . ? Try to remember. . . . It'll come back to you — you'll remember.")

Personal resentments and long accumulated hostility toward the accused are also exploited, as well as the conscience-easing rationale that the defendant need only do likewise to save himself, *i.e.*, let

*See Harvey Matusow, *False Witness*, Cameron & Kahn, New York, 1955.

him be practical and sensible and go along with the tide instead of bucking it.

Apropos of this, there is the current attitude of prosecuting officials, whose careers and thinking are an integral part of the dominant political ideology, and who, as a rule, are dedicated to the proposition that no matter what is done to a political dissident charged with being a Communist, it is moral, justified and patriotic. Indeed, with some devout persons it is an act of faith. In this respect there is every element of the self-righteousness of the Holy Office of the Inquisition, whose "power for evil," according to the noted Harvard philosopher Dr. Ralph Barton Perry, "was magnified by its benevolent profession."

In a recent article Dr. Perry draws a striking parallel between our own time and the Spanish Inquisition. Here are a few of Dr. Perry's impressive list of 30 points of similarity:

- "5. Pressure on those examined to confess guilt and repent.
6. Insistence that the accused . . . testify against those whom the inquisitor names.
7. Guilt imputed to relatives, friends or associates of the accused.
11. Suspicion attaching to those who do not inform or testify.
14. The assumption of guilt in the absence of proof of innocence.
24. A peculiar vindictiveness toward those who resist."*

Returning to our jigsaw puzzle, it must ever be borne in mind that it is framed (in every sense of the word) by the overpowering political atmosphere.† Riding high on the wave of successful prosecutions, our modern inquisitors become overconfident, arrogant and contemptuous of the public's intelligence. No one can possibly challenge them, for in doing so one would be challenging the hostile sentiment of the entire nation. But the result is that "holes" are overlooked and serious blunders are made; and even when these are finally repaired they display signs of hasty and clumsy patchwork.

In the chapters to follow it will be seen that the prosecution's case in the Rosenberg trial record is riddled with discrepancies, contradictions and sheer improbabilities, betraying methods and

procedures that were for the most frequently the result of spur-of-the-moment decisions.

(This was amply illustrated at the time wherein the junior Senator's chief brazenly produced a doctored photograph as well as a so-called secret FBI summit meeting at Fort Monmouth.)

This classic weakness is to be found in every single official, not even the most brilliant, the mastermind and take the full responsibility straight in every detail. Each particular danger involved should the frame-up be that an official will admit, even to his own part in something as heinous as a deliberate frame-up, that those on its periphery, mere bystanders, are completely ignorant of the significance of the proceedings.

And therefore it is precisely because of this weakness, all working in different offices, interviewing different witnesses, that the complete picture is a crazy-quilt appearance. But, at the same time, the workmanship proves to be its Achilles' heel. As many cooks have spoiled the broth, so many different hands have spoiled the work. More than any other that it always proves itself to be found and confuse, making it difficult to follow.

Therefore, in the Rosenberg case, the trial process, one is constrained to take firm hold of the genesis of the Atomic Age — the Rosenberg case.

*In a later chapter, dealing with the "perjury" case, see the nearest thing to an admission. (Cf. Chapter 10.)

**The Progressive*, August, 1954.

†And yet it is this apparent advantage that eventually proves to be the most serious weakness of the political frame-up. In other words, when the frame is finally removed from the picture, when the political atmosphere changes, the naked frame-up becomes recognizable. Which explains why the Mooney and Sacco-Vanzetti frame-ups of past decades are universally recognized today.

makeshift, off-the-cuff and
nt "brain storms."

Army-McCarthy hearings,
chmen, led by Roy Cohn,
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all modern frame-ups. No
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. 9, pp. 213-214.)

2

First There Was a Man Called Fuchs

*"On August 6, 1945, a split atom sent waves of
destruction circling out over Hiroshima — an
explosion whose implications still batter against the
institutions of our time."*

— "The Rosenberg Case,"
Columbia Law Review, February, 1954

WITH these portentous words the *Columbia Law Review* begins its sober "reflections" on the Rosenberg case, which it designates as "the outstanding 'political' trial of this generation"; a trial that took place "in an atmosphere of clashing ideologies and fearful expectations."

In each of his appeals to the higher courts Emanuel Bloch, the attorney for the Rosenbergs, laid particular emphasis on the political events leading up to their arrests. To recapitulate these events briefly: The years that followed World War II witnessed a rapid deterioration of relations between the U. S. and the U.S.S.R. The world-shaking fact of the Hiroshima atom bomb had raised the spectre of mass annihilation by the most devastating weapon ever devised. Until its discovery, the American people had felt blithely secure from any serious air attack such as had reduced Europe to rubble. Now, however, there was the sudden realization that an all-out atomic attack might very well devastate our major cities and kill twenty to thirty million people overnight.

It was a terrifying prospect, and one which was not quite dispelled by the illusion that the United States possessed the monopoly of the "secret." For the stark truth was that there was no secret at all! In December of 1949 the International News Service divulged under a Washington dateline that:

"The Atomic Energy Commission Friday bared secret documentary proof that Russia has known the scientific secrets of Atom-bomb manufacture since 1940, the year the United States began attempts to develop the missile." (Emphasis added.)

It was the product primarily of European scientists (Meitner, Hahn, Kapitzka, Bohr, Fermi, Pontecorvo, Joliot-Curie); and it was no more a secret to the nuclear physicists of the Soviet Union than was the internal combustion engine or the motion picture camera when these inventions were simultaneously developed in the United States and in France.

In its 1949 report the Joint Congressional Committee on Atomic Energy endeavored to clear up the "confusion" surrounding "the nature of atomic secrets" and to "clarify this aspect of public thinking." It stated:

"There existed, for instance, an unfortunate notion that one marvelous 'formula' explains how to make bombs and that it belonged exclusively to the United States. Actually, the basic knowledge underlying the explosive release of atomic energy — and it would fill a library — never has been the property of one nation.

"On the contrary, nuclear physicists throughout the world (including those who live behind the Iron Curtain) were thoroughly familiar with the theoretical advances which paved the way for practical development of an atomic bomb. . . . The Soviet Union, for its part, possesses some of the world's most gifted scientists . . . men whose abilities and whose understanding of the fundamental physics behind the bomb only the unrealistic were prone to underestimate. . . ."

Actually, the first key to the splitting of the atom had been discovered in Italy in 1934, at least eight years before the initial successful American experiment in December of 1942. Its basic theory went back as far as Einstein's famous equation of "Energy equals Mass multiplied by the Square of the Speed of Light," made publicly known in 1905! And ever since 1937 Soviet scientists had been conducting the most intensive research in the field of atomic energy on a scale possibly equal to that of the United States. For, as the Smyth Report emphasized, in addition to a highly competent corps of scientists and technicians, only such a country which could put forth "the magnitude of the necessary industrial effort" was in any position to produce atomic weapons.*

*H. D. Smyth, *Atomic Energy For Military Purposes*, Princeton University Press, 1945, p. 224.

Note: This explains why Great Britain, despite the fact that its scientists had participated in the Manhattan District Project, could not itself produce

Despite these facts so well known to the world of science, it nevertheless suited the purposes of our State Department and the Pentagon to maintain the myth of the "secret," and at the same time to perpetuate a state of unfounded terror at the loss of it. In September of 1945 War Secretary Henry L. Stimson urged in his confidential memorandum to President Truman that unless we shared our atomic information with our allies, and particularly with the Soviet Union, and that unless we ceased the wearing of "this weapon ostentatiously on our hip, their suspicions and their distrust of our purposes and motives will increase." Stating it in terms of sheer common sense, his historic message continued:

"The chief lesson I have learned in a long life is that the only way you can make a man trustworthy is to trust him; and the surest way to make him untrustworthy is to distrust him and show your distrust."*

And although the veteran statesman concluded in his memorandum that this "realistic" policy was a "vitally important step in the history of the world," and although our leading American nuclear physicists pleaded for the banning of the weapon, for international control and for mankind to share its knowledge of the new force by turning the earth into a garden rather than into a heap of bones and ruins, the "war psychosis" of the Forrestal clique prevailed.† With the architects of our postwar policy intent on building more and greater air fleets and air bases, the most profitable arms race of all history commenced.

To allay the prevailing disquiet, as well as to stave off protest against the mad race, the semi-official propaganda ran that the Rus-

sians could not possibly make in less than twenty, ten, five declared, we would be so and better A-bombs and H Russians could never catch

Only to a comparatively it didn't really much matter Russians had only 500 at a many more than needed to Union, whereas their 500 All, then, that we could prevent Armageddon was that we much more "deader" than

Lulled, therefore, into pernicious misconception that in the science of atomic energy Truman's announcement of explosion had taken place in consternation bordering on confusion severely disillusioned, made by our allies, who in the battlefield between the two

But if there developed "tough" and "go it alone" policy suppressed at home. All three period the Democratic and other about the hobgoblin: charges of coddling "Red" scare headline.

To the Truman Administration of pressing problems: 1 that it had sold out China "soft on Communists"? How security its military pundits for the fact that the Russian billion-dollar atomic effort, of ignorant peasants incapable their rusting tractors? How permitted a military economy

One answer was found, 2 The Russians stole the secret the American Communists

an atomic bomb until seven years after the first American bomb, and three years after the first Soviet bomb.

Ten years after the Smyth Report the New York Times of March 2, 1955, stated:

"Soviet atomic research goes back to the late Nineteen Twenties.... In 1942, at the depth of Soviet military fortunes, A. E. Brodsky separated the main fissionable form of uranium, 235, from ordinary uranium. Even earlier, the physicist Peter Kapitza had called on his fellow Soviet scientists to solve the problems of building atomic bombs."

*Henry L. Stimson and McGeorge Bundy, *On Active Service*, Harper, New York, 1947.

†Secretary of Defense James V. Forrestal, former banker and president of the Wall Street firm of Dillon, Read and Co., whose mental illness continued even while he was in office. Placed finally under psychiatric care at the Naval Hospital, he leaped to his death in May, 1949. (See *Forrestal Diaries*, Walter Millis [ed.], Viking, New York, 1951, pp. 547, 554-555.)

know-how" of the atom bomb years. But by that time, it was with our stockpile of bigger and possibly C-bombs) that the

king people did it occur that had 10,000 A-bombs and the joint for our 10,000 would be the industrial cities of the Soviet ample to destroy all of ours. aim in the event of an atomic under the population of Russia d render ours.

ion of invulnerability by the oyed a monopoly of knowledge shattering impact of President ber of 1949 that an atomic ex- et Union produced nationwide Not only was our own popula- most serious stock taking was saw their countries as the gory owered giants.

esistance to Washington's "get ondon and Paris, it was swiftly ensie created by the Cold War an ties had vied with each mestic Communism. Reckless raitors had become the favorite

herefore, was presented a num- ounter the Republican charges eds—that it had always been plain away the false sense of uiled us with? How to account uddenly duplicated our multi- y were supposed to be a nation n the "know-how" of repairing n the Cold War hysteria which full employment?

ile dictu, it solved everything: atom bomb from us and it was done the dirty deed for them!

With the sensational arrest of Dr. Klaus Fuchs in England in the early months of 1950, the first step toward finding a suitable "Red" scapegoat was taken. For not only was his so-called confession that of a repentant Communist but there was his claim that he had had American accomplices while he had been part of the Los Alamos Atomic Project.

And so we come to the first link in the chain of events which led to the deaths of the Rosenbergs—the person of Dr. Klaus Fuchs. It is therefore necessary to ask this twofold question: Who exactly was Dr. Fuchs, and what were really the circumstances of his arrest and his confession?

ii

*"There are also some other crimes which I have committed, other than the ones with which I am charged. When I asked my counsel to put certain facts before you, I did so in order to atone for these crimes. They are not crimes in the eyes of the law."**

In most New York newspapers, following the executions of the Rosenbergs, brief histories of the case appeared. And always there was the familiar sequence: First there was a man called Fuchs, then there was Harry Gold, then came the Greenglasses, and finally the Rosenbergs.

When, however, one examines the actual facts, the apparently cohesive sequence becomes but a house of cards. Touch any part, and it all begins to shake. For example, we have been told that Fuchs definitely named Harry Gold as his chief courier. Yet the official facts disclose that Fuchs never named anyone—Gold or anyone else. He could not even describe Gold or identify his photographs. Indeed, he identified the photos of a New York engineer whom J. Edgar Hoover has referred to as "James Davidson," and who was completely cleared of any suspicion.

We have also been told of a great man hunt conducted by the FBI and how from Fuchs the trail of conspiracy led them to Harry Gold. Yet the truth is, as we shall see, that no such man hunt ever took place save in the publicity releases of the FBI. In short, we

*Final public statement made by Dr. Fuchs at the conclusion of his "trial." See p. 35, Joint Congressional Committee Report of 1951 on "Soviet Atomic Espionage," hereafter referred to as the "Joint Report."

find that a state of mind was induced in the average American—one of unquestioning acceptance of everything put before him carrying, or seeming to carry, an official stamp—or as Dr. Perry refers to it, "a growth of credulity throughout society at large."

The "confession" of Klaus Fuchs was first revealed at 1 at Bow Street Court, London, one week after his arrest. (witnesses were called: Commander Arnold, senior secur and his subordinate, William Skardon. These two officers a series of interviews they had had with Fuchs over a peri months, the result of which was the so-called confession. and only other witness was Dr. Michael Perrin, an atomic who told of a scientific interview with Fuchs at the time of l The details of this officially requested interview were not publicly.

At the trial itself in Old Bailey, less than three weeks h which lasted only one hour and twenty-seven minutes, a that "there was no jury and no evidence beyond that offered prior Bow Street proceedings." Here is the testimony of as Mr. Skardon was questioned:

"Is it right that before you took a statement from him there was no evidence upon which he could be proved?"
"That is right," Skardon testified."* (Emphasis

Thus, at the very outset, we see that no substantiated confessed crime exists other than the accomplice testimony of Gold at the Rosenberg trial. As for Dr. Fuchs' weird Hyde confession, we find it has been subjected to cynical criticism by such prominent British writers as Rebecca West and St. Spender.†

In Miss West's opinion Dr. Fuchs is a "strange bird" and a balanced egotist; someone who seemed to have lived in a "Cuckoo-land" all his life. She finds his confession "read like a

*Excerpts from and description of the testimony at Fuchs' trial, officially disclosed excerpts of his confession, quoted material from the New York Times articles written by Rebecca West and Stephen Spender, and House of Commons minutes are all from the Joint Report.

†Miss West is the author of *The Meaning of Treason*, and has become known as an apologist for Senator McCarthy. (See *U. S. News and World Report*, July 3, 1953.)

Mr. Spender is a well known ex-Communist "expert."

ramblings of a silly boy of sixteen," making one wonder "whether we might not have a lunatic occupying a high position in some project."

An eyewitness at the trial, Mr. Spender observed that Fuchs was "extremely abnormal," had a "gift for self-dramatization [and] an amazing power to cast a role for himself." For, as part of his confession, Dr. Fuchs had offered this rather novel diagnosis of his aberration:

"I used my Marxian philosophy to conceal my thoughts in two separate compartments. . . . Looking back on it now, the best way is to call it a controlled schizophrenia."

Somewhat suspicious of these mental gymnastics, Mr. Spender consulted a psychiatrist. It was known also that there was a strong strain of insanity in the Fuchs family, both his mother and sister having committed suicide. The psychiatrist pointed out that the "schizophrenic does not with one part of his mind know and the other part do." In other words, Fuchs' rationale was psychiatrically impossible:

"Such a state of mind seems extremely childlike and comes within what the psychiatrist calls 'infantilism.'"

When a special study of Fuchs' professed activities as a Communist student in Germany was made by Miss West, his claims were found to be in complete contradiction to the actual political events:

"He betrayed an unusual degree of political ignorance. . . . He is not what he is supposed to be. He is feared as a fanatical Communist. But he is not even a loyal Communist. . . . He is too infatuated an egoist ever to have given himself to any party."

Yet it is on the foundation of his being a fanatical Communist that Fuchs' role as a spy rests. When the Attorney General, Sir Hartley Shawcross, opened the trial, this point was greatly emphasized:

"The prisoner is a Communist, and that is at once the explanation and indeed the tragedy of this case. . . . The true adherents of Communism, indoctrinated with the Communist belief, must become traitors to their own country. . . ."

Official declarations disclose that British Military Intelligence (M.I. 5) and Scotland Yard made the most exacting investigations of Fuchs throughout his seventeen years in England. There was never the slightest evidence of Communist Party membership or even association. In 1946, M.I. 5 placed him under secret surveillance for

five full months. Not only was he found he was given such a clean bill of passport he was promoted to Deputy Chief Scientific Officer of the Atomic Energy Research Establishment. We are asked to believe the following

"When I learned about the passport search I decided to inform the Russians through another member of the Communist Party. . . . Since that time I have had complete confidence in the Russians. . . . Since that time I have had complete confidence in the Russians." (Emphasis added.)

What support, if any, really existed? There is only one source of such startling disclosure was made by the House of Commons only five

"Not long after this man came to England in 1933 - it was said that he was that information was the Gestapo. . . . When the matter was looked for it whatever. And from that time a proper watch was kept at the time it came back to Harwell. On all the inquiries were made and there was him." (Emphasis added.)

The Gestapo's accusation was made arrived in England as a "refugee" from twenty-three years old and had enrolled to complete his studies in mathematics. The stable of that city received the report stated that Fuchs had been a member of the Communist Party while a student in Kiel.

It will be recalled that it was a plot to plant its agents in Belgium, the "anti-Fascist refugees." Some were some even claimed to be "escapees"

Little wonder, then, that M.I. 5, tapo ruse, shipped Fuchs off to a Communist Party. . . . When the Nazis invaded the Low Countries in Fuchs' record, we find another star from genuine anti-Nazi refugees, at

near Quebec, "a camp of pronounced Nazis" and one that was wholly restricted to "avowed and unrepentant Nazis!"*

We have seen disclosed so far three most curious facts, each of which taken alone would make anyone sit up in wonder. First, that no substantive or independent evidence exists to support the claim that Fuchs was a spy for the Russians. Second, when we search for proof that he was indeed a Communist, there is none save the highly questionable word of the Gestapo. And finally, it appears that M.I. 5 definitely classified and interned him as a Nazi!

With these three key points as a guide, Dr. Fuchs' enigmatic speech at the close of his trial starts to take on meaning. His "other crimes" may very well have consisted of espionage committed, not in behalf of the Russians, but in behalf of Nazi atomic research! Let us examine some incidents.

One afternoon in 1948, while Fuchs was riding through the English countryside in the automobile of a friend, the windshield was suddenly cracked by a bullet. Completely terrified, Fuchs crouched under the dashboard and refused to get out of the car until he was convinced by authorities that there was no further danger. Even though it was thought to be a hunter's stray shot, Fuchs remained certain he had been fired at. Whether the basis for it was real or fancied, the incident demonstrates that Fuchs was living in a highly charged state of apprehension.†

Turning to another incident just previous to his trial, it was reported that Fuchs was fairly paralyzed with fear that he would be charged with High Treason and hanged. Of course, his attorney assured him that he was in no danger of the death penalty because treason could be charged only if he had given the information to an enemy; and since Russia had been an ally, the charge was limited to violation of the Official Secrets Act. Nevertheless, his terror was so great that he had to be attended by a doctor even in the courtroom.‡

Here, then, are two more clues providing an insight into the behavior of Dr. Fuchs. Regarding the first, one is compelled to ask whom did he fear and why? Did he fear personal attack or vengeance from Communist assassins? Had he double-crossed them some time prior to that automobile ride in 1948? No, because according to his confession he was still giving the Russians valuable secrets as late as 1949. Hence, they would have little reason to be shooting at him in 1948.

*Alan Moorehead, *The Traitors*, Scribner's, New York, 1952.

†*Ibid.*

‡*Ibid.*

And as for his terror of being hanged for High Treason, why should Fuchs be so overcome when it was plain that such an outcome was impossible?

The question begs for its answer: That Fuchs had committed High Treason or had agreed to do so in behalf of an enemy nation, namely Nazi Germany. With all the present outcry about Soviet atomic espionage, one tends to overlook the fact that the galvanizing force behind our original effort to produce the atomic bomb was the fear that Hitler was making rapid progress in the same direction. According to the Joint Report:

"... British Military Intelligence was receiving reports of an extensive German plan to build a new weapon, an atom bomb, which would be decisive in the war.

"In occupied Norway, secret underground agents reported construction of strange heavy-water plants, where hundreds of German scientists had been put on special duty. . . .

"At the same time, a meeting was called in London to lay plans for an answer to German atomic research."*

If, then, British underground agents were in a position to report the developments of German atomic research to M.I. 5, it is reasonable that Nazi secret agents had also been sent abroad to report developments in British atomic research.

And even if we accept as true that the other crimes to which Fuchs alludes were "not crimes in the eyes of the law," the explanation of this bit of mystification could be: (1) That as a young German scientist Fuchs had agreed to keep abreast of British research in nuclear physics and to furnish such information to agents of the Gestapo; (2) that soon after his arrival in England the Gestapo sought to cloak him as a Communist; and (3) that Fuchs, having had a change of heart, either refused outright to furnish the desired information, or delivered deceptive and worthless material, or kept stalling the Gestapo with promises.

Hence, while there may have been no real danger of retribution, nevertheless, in Fuchs' "extremely abnormal mind" the gnawing fear of it was no less present. There was the fear of assassination manifested during the 1948 automobile incident, and there was also his increasing anxiety that he would be exposed as a Nazi agent and charged with treason.

By the end of 1949 Dr. Klaus Fuchs had not only become an important figure in British scientific circles, but, after fifteen years in

*Joint Report, p. 20.

England, he had begun to see himself as more British than German. In his confession, he dwells at length on his respect for the English people and his admiration for their "decent way of life." What, then, must have been his dread of exposure, either as the result of Nazi threats, or by the work of M.I. 5? Such exposure (even if he maintained that he had not actually committed espionage) could not fail but horrify his British colleagues and friends. Certainly it would bring dishonor and complete ruin to his brilliant career; possibly even deprive him of his cherished British citizenship.*

No matter what the Foreign Office's postwar attitude toward their former foe, Englishmen could never forgive one who had agreed to help the butchers of Coventry, the perpetrators of the V-bomb and buzz-bomb "blitz." On the other hand, if he were to present himself as a contrite ex-Communist who had aided their Russian ally through mistaken ideals, forgiveness could be expected. In socialist-minded England, where a former Communist like John Strachey could become a Cabinet Minister, such youthful sins were tolerantly overlooked.

In reconstructing what must have been Fuchs' thinking by the end of 1949, everything points to this line of reasoning. For it was on September 23, 1949, that President Truman made his announcement of the Soviet Union's successful atomic explosion. And it was less than one month after this turning point in history that Fuchs decided to commence his first chary, *voluntary* disclosures to Commander Arnold, the chief security officer at Harwell, who, it turns out, happened to be his *best friend*.†

Although we cannot know precisely what went on in Fuchs' mind ("controlled schizophrenia"), his solution was not too difficult. Instead of living in real or imaginary fear of being hanged as a Nazi spy, how simple it was to substitute two forgivable words for two unforgivable ones: Instead of the obnoxious enemy Germany, simply substitute and make it Russia; instead of the once-feared and hated Nazism, simply substitute the now-feared and hated "Communism."

According to Dr. Fuchs' statements made to the security officers, he had a "childlike" confidence that nothing serious would happen to him; in fact, that his disclosures would be received with gratitude. It must be remembered that this process of "confession" was spread over a period of some four months, and it is here that the process of self-entrapment is so well illustrated. The following testimony is from William Skardon:

*Moorehead, *op. cit.*

†*Ibid.*

FIRST THERE WAS A MAN NAM

"... He [Fuchs] said that since he might, upon reflection, think it impossible at Harwell and that if he came to that c his resignation. He thought it would be to obtain a University post."

This is *after* he had already confessed to espionage! Here, indeed, is the height of na becca West's characterization of a "fibberly- he *might* consider leaving his post at Har some University post! Little wonder, then, placed under arrest his shock was so great was considered an utter absurdity:

"You realize," he exclaimed, as his colle him over to Commander Burt of Scotland Y: at Harwell!"*

From Dr. Fuchs' point of view, it was o ingratitude. For at this precise time, we journalist Alan Moorehead, an important England, with the Labour Party certain o Dr. Fuchs had every reason to believe that he windfall for his Tory-minded friends, somet embarrass the socialist Labour Party. Ho not the only German who had miscalcu British mind. There had been a more disastu Rudolf Hess, heir apparent to Hitler, had t to come parachuting down on the estate o quite confident that he could conclude a

In the excerpt from Dr. Fuchs' confession to become a spy, we have underlined his : mediaries were completely unknown to hin bared that he claimed to have established c through *another member* of the Commun testimony of Security Officer Skardon, to a confession, we learn further that:

"This illegal association commenced : tiative and no approach was made to hi

**Ibid.*

†*Ibid.*

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It is all very strange as one tries to visualize the picture. How exactly does a young German, recently released from an internment camp for pronounced Nazis, become a Russian spy in blitz-bombed England of the early 1940's? According to Skardon's testimony, Fuchs "had never been a member of the British Communist Party." Therefore, if we believe his confession, it follows that he could have established contact only through a member of the German Communist Party. Thus there arise a number of perplexing questions which have never been answered.

First and foremost, who was this first Communist who helped Fuchs contact his Russian spy-masters? Surely, if Fuchs sought him out and trusted him, as he states, "with his life," he should at least have known this individual's name. Why is it that, with all there has been written about Dr. Fuchs, there has never been a word about the identity of this first intermediary? Second, how did Fuchs meet this mysterious person? Did he go to the man's home? Then he should have been able to tell M.I. 5 the address.

Third, and most important, what about the highly efficient British Military Intelligence during this period? Here they had just released someone they had believed to be a Nazi, someone they had just permitted to do "war work" in atomic research. Would they not be inclined to keep him under surveillance, especially in his contacts with other Germans? Moreover, the man whom Fuchs was asking to lead him to the Russians (being another German, and therefore an enemy alien) would also have been kept under surveillance.

In short, if we accept Fuchs' confession at face value, we are forced to accept with it the most improbable set of circumstances. It is therefore well worth comparing it with another confession. It is that of the atomic scientist Dr. Allan Nunn May, who was convicted of the same charge as Fuchs back in 1946. Here are some excerpts from Dr. May's confession:

"About a year ago, whilst in Canada, I was contacted by an individual *whose identity I decline to divulge*.

"... I gave and had given very careful consideration to [the] correctness of making sure that development of atomic energy was not confined to U.S.A. I took the very painful decision that it was necessary to convey general information on atomic energy and make sure it was taken seriously.

"... This information was mostly of a character which has since been published or is about to be published.

"... The whole affair was extremely painful to me and I only embarked on it because I felt this was a contribution I could make to the safety of mankind."* (Emphasis added)

One cannot help but be impressed with the authentic ring of these statements in contrast to those of Fuchs. Whether one condemns him or not, Dr. May's confession strikes one as that of an idealist with the strongest convictions.†

Unlike Fuchs, Dr. May indulges in no crocodile tears and no "mea culpas." Unlike Fuchs, he never considers himself a spy, but a humanitarian. Above all, his mind seems to be contained within one compartment; he seems to know clearly what he was doing and why, and offers no psychological hocus-pocus as an alibi for his indiscretions.

In Dr. Fuchs' confession we have the fantastic picture of an "eager beaver" scurrying about London to find someone who will lead him to a Russian to whom he may volunteer as a spy. In Dr. May's confession there is the matter-of-fact, unadorned statement that it was the Russians who contacted him.

In Dr. Fuchs' account not *one* of all his many intermediaries is known to him — either by name or description — and, as we shall see, not even his so-called American confederate, Harry Gold. In Dr. May's account he knows the identity of his contact very well, but flatly refuses to divulge it.

*See chapter on Dr. May in Joint Report.

†Dr. May's views were expressed frankly at his trial by his counsel, Mr. Gardiner:

"Doctors take the view that if they discover something of benefit to mankind, they are under obligation to see it is used for mankind and not kept for any country or people. There are scientists who take substantially the same view, and Dr. May held that view strongly." (Joint Report.)

Soon after his sentence, the Association of Scientific Workers of Great Britain condemned the severity of it on the grounds that:

"Dr. May was in a position to give fundamental scientific information only, having no connection with the know-how of atomic-bomb manufacture." (Moorehead, *op. cit.*)

Sentenced to ten years' imprisonment, Dr. May won his freedom and was restored to his full rights as a British citizen on Dec. 29, 1953, after serving six years and eight months as an exemplary prisoner. Even upon release, when it might well have served him to assume the pose of the penitent, he declared he had no remorse but insisted rather that he had "acted rightly." (New York Times, Dec. 30, 1953.)

iii

In concluding the question of the authenticity of Klaus Fuchs as a Russian spy, it is not amiss to point to the conclusions reached by Mr. Moorehead, who, although he provides several rationales for Fuchs' claims, nevertheless concedes that the case has "left behind an enormous field of misgiving and speculation."^{*}

One thing, however, appears certain: Whereas there exists the testimony of Harry Gold as the *only* corroboration to Fuchs' authenticity, curiously enough, this testimony is not only contradicted by all available facts but has been denied by Dr. Fuchs himself!

At the trial of the Rosenbergs the authenticity of Gold as the American confederate of Fuchs was never contested by the defense nor doubted by the jury. The FBI had officially announced it, Gold himself had confessed it, the newspapers had sensationalized it, therefore it was accepted as God's own truth. And yet the foundation of Gold's testimony against the Rosenbergs, the story of his alleged two meetings with Fuchs in Santa Fe, had not the slightest corroboration as far as Dr. Fuchs was concerned!

These two Santa Fe meetings, supposed to have taken place on June 2, and Sept. 19, 1945, were the two most important meetings in their relationship. In a signed article by J. Edgar Hoover in *Reader's Digest* we are told that it was at the June 2 meeting that "Fuchs gave Gold a packet of vital information," and that on Sep-

^{*}*Op. cit.*, p. 156.

Note: Following Dr. Fuchs' arrest there appeared this article in the *New York Post* of Feb. 12, 1950:

"Dr. Ralph S. Baney, former assistant Director of Research on social deviations at Columbia University College of Physicians and Surgeons, pictured Fuchs as a 'deceitful, deceptive personality,' whose confession 'should not be taken as gospel truth. . . . His confession itself has to be looked upon with suspicion. . . . Such a man's activities or declarations, before or after the discovery of his crime, has, in most cases, proved untrustworthy.'"

On Feb. 20, 1950, a *New Republic* editorial demonstrated considerable political acumen after it had pointed to "several unanswered questions," and especially the "unsolved mystery" of why Fuchs suddenly decided to turn against the U.S.S.R. after seven years of loyal espionage:

"... The Fuchs case radiates harm in several directions. . . . It weakens the case for the sharing of atomic information among Great Britain, Canada and the U.S. . . . It gives new fuel to the loyalty testers and witch hunters, in and out of Congress. It makes easier the defense, by the FBI and other agencies, of such practices as wire-tapping. . . . From all these points of view, a sorry business."

FIRST THERE WAS A MAN

tember 19 there took place "the final formation — data on the complete proce

One would logically assume, therefore, that the confederates of atomic secrets in Santa Fe would have recalled most vividly, just as they had described them as minutely to M. and the Rosenberg jury, some mention included in his indictment. However, what do we find? Here are the only 1 officially charged:

"(1) In Birmingham, England, in between December 31, 1943, and A. Mas., in February, 1945; and (4) 1947."†

As is seen, there is no mention of any June 2 or on September 19. This "hole" to the very heart of the Rosenberg case it was after he had picked up an envelope from Dr. Fuchs in Santa Fe on June 2 that he attempted to do likewise with David Greenglass. This basic difference between Gold's testimony and the Rosenberg testimony was unknown to the Rosenberg defense. If Gold were telling the truth about his meeting with Dr. Fuchs in Santa Fe, then he was guilty of espionage with David Greenglass in Santa Fe.

Another serious disparity between Fuchs' testimony and the Rosenberg testimony is that Fuchs' other meeting has a threefold aspect: A. He was asked about the date and place where he had his "first contact with a Russian."

Dr. Perrin replied: "In February, 1945."

Now let us turn to the testimony of the Rosenberg trial:

Q. Now, did you have a meeting with Fuchs, early in January of 1945?

A. [Gold]: Yes I did. . . . The safe was in Fuchs in Cambridge, Mass., I returned to New York City. . . . The report was turned in around the second week in January.

^{*}J. Edgar Hoover, "The Crime of the Century"
†Joint Report, p. 33.

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der's Digest, May, 1951.

Q. Did you have a further meeting with Fuchs within the next month or so?

A. Not within the next month or so.*

Discrepancy No. 1: Whereas Fuchs told Dr. Perrin that the meet-
 ing took place in Boston, we see that Gold insists that it was in
 Cambridge and that no other meeting took place anywhere else
 in the month that followed.

Discrepancy No. 2: Whereas Fuchs' indictment placed this meet-
 ing in February, we see that Gold has it early in January.

Discrepancy No. 3: Whereas Fuchs' contact is a Russian, Gold is
 an American, who came to the United States as a child of three from
 Switzerland. Thoroughly American in manner and speech, Gold
 could not possibly be mistaken for a Russian.

One may ask: Is it possible, after Fuchs had met Gold in Cam-
 bridge in January, that he had met a *second* courier, the Russian, in
 Boston? Not only because there is no evidence from Fuchs to
 support this, but Mr. Hoover's *Reader's Digest* article tells us that
 "Dr. Fuchs disclosed that while in the U. S., he had dealt with one
 Soviet agent only."

Whom are we to believe? Mr. Hoover, or Dr. Fuchs? Since there
 was only one courier Fuchs had any contact with in the United
 States, and since he is described as a Russian, it cannot possibly have
 been Gold.

Thus, not only is there no corroboration from Fuchs that he ever
 met Harry Gold in Santa Fe, but there are the most serious doubts
 that he ever met him anywhere, whether New York, Cambridge
 or Boston!

Even more remarkable is the fact that Fuchs proved completely
 unable to describe or identify Gold until compelled to do so *after*
 Gold's voluntary "confession"! In Mr. Hoover's official version of
 the Fuchs case, we are told that two FBI agents visited the prisoner
 to obtain a description of the Soviet courier with whom he had dealt
 during his stay in the United States. Here is the Joint Report on
 the result:

"Fuchs was able neither to give the FBI Gold's name nor to
 furnish an accurate description."

In Mr. Hoover's *Digest* article we are told also that an attempt
 was made by the FBI agents to have Dr. Fuchs identify his Amer-
 ican courier more accurately. Mr. Hoover writes:

*Rosenberg trial record (hereinafter referred to as "Record"), pp. 818-819.

"What did the man look like? Well, he was from 40 to 45
 years of age, possibly five feet ten inches tall, broad build, round
 face, most likely a first generation American.* A description
 which might fit millions of men!"

Although Mr. Hoover readily acknowledges the vagueness of this
 description, let us compare it with that of Gold, such as it is. In
 Fuchs' description, his courier was a man of broad build, 5 feet 10
 inches tall. But Harry Gold, according to Mr. Hoover's article, is a
 "little, five-foot six-inch" man! According to Fuchs the courier was
 40 to 45 years old. But in the period 1944-45, when Fuchs is sup-
 posed to have met with Gold, the latter was only 34 or 35 years old!

It would seem logical if Fuchs had really met with Gold on so
 many occasions and so recently (only five years earlier) that he
 should remember someone of his own age, since he was exactly 34
 himself in 1945. One would also think that he would have had some
 idea of the man's height compared with his own, and that he would
 remember that Gold was two inches *shorter* than himself, not taller!

In his *Digest* article Hoover describes Gold as "short and chubby
 . . . small and chunky . . . round face and curly hair." Elsewhere
 he is pictured as "a fat, little man with discouraged shoulders and
 a pouting face—a withdrawn, mousy individual—with dark, al-
 most swarthy skin, receding forehead and anxious eyes."† In *Life*
 magazine of June 12, 1950, his stance is described as a "peculiar
 slouch."

Is it conceivable, if Gold was truly Dr. Fuchs' only confederate
 in the United States, that the scientist would not have retained a
 most memorable impression of a face and figure so striking?

Not only is he unable to describe Gold correctly but, according
 to the Joint Report, even when the FBI showed him various photos
 of Gold, he still could not "recall having seen the individual pic-
 tured." In fact, we learn that Dr. Fuchs identified a totally different
 person! Here is Mr. Hoover regarding this development:

"Dr. Fuchs rejected all [photos] except one—a picture of the
 man we call James Davidson.

"Undoubtedly, Davidson had some association with Communist

*Here, evidently, Dr. Fuchs' "Russian" undergoes a swift transformation
 into Mr. Hoover's "first generation American." Whereas an American of
 immigrant parents might describe *himself* as such, how would anyone else
 be able to guess that "most likely" someone was or was not a first, second
 or third generation American?

†Oliver Pilat, *The Atom Spies*, Putnam, New York, 1952.

activities, but we knew from some of the evidence on him that he could not have been Fuchs' accomplice."*

If one should contend that Fuchs may have hoped to mislead the FBI for reasons of loyalty to Gold, or whatever, the argument is without basis. In the first place, Fuchs made a voluntary confession emphasizing his contrition and his desire to aid the authorities to the best of his ability. Second, if he had wanted to conceal the identity of Gold he could simply have refrained from mentioning any couriers other than those agents he had dealt with in England. Third, if Fuchs was desirous of protecting Gold, why did he need to recognize any of the photos at all? Why would he be so stupid as to make an *impossible* identification such as he did with that of "Davidson"? And finally, there is Mr. Hoover's statement that Fuchs' sister, residing in the United States, also believed that "James Davidson" might have been the visitor to her home during the period her brother had lived with her.†

In short, then, the possibility of Dr. Fuchs' deception of the FBI appears to have no foundation, whether in logic or in fact.

Thus far, we have seen that Dr. Fuchs was totally unable to oblige the FBI as far as Harry Gold was concerned. No name, no accurate description, no recognition of Gold's photographs — and, to make matters even worse, his insistence that his courier had been an entirely different person! How, then, did Dr. Fuchs finally come to identify Gold? Unfortunately, there exists no official account, that is, an account certified by a British official. Hence we are forced to turn to Mr. Hoover's account in the *Reader's Digest*, the gist of which is:

1. That on May 15, 1950, the FBI began a seven-day period of interviews with Harry Gold in their Philadelphia office, during which time Gold firmly denied knowing Dr. Fuchs.
2. That "much earlier" they had made a secret motion picture film of Gold and had flown it to England to be viewed by Dr. Fuchs.
3. That sometime following the first day of Gold's questioning he had allowed the FBI to make another motion picture of himself, and that this too had been flown to England for Dr. Fuchs' inspection.
4. That on May 22, or the seventh day that Gold was "interviewed," the FBI finally decided to search his home, and that they found in his room a certain "museum" map of Santa Fe (which

*Mr. Hoover uses "Davidson" as a fictitious name to spare the suspect any damaging publicity.

†This sister was also unable to describe or identify Gold as the visitor, even though Hoover tells us in his article that she recalled no less than three visits, one of them an extended luncheon.

will be proved to be a total fraud in it was the discovery of this map which him to break down and confess.

5. That "quite by coincidence," in confession, a cable was received from ing that Dr. Fuchs had at last iden turns out) from the first motion pict

6. And finally, that "two days late the FBI agents that Dr. Fuchs, having: was now "positive" that Gold was in

Thus, in simplified synopsis, runs count of what should have been a ro that is, if Dr. Fuchs had truly dealt dantly clear is that Mr. Hoover gave tle choice. For, when we turn to the n chief was too impatient even to wai "positive" identification. On the nigh utes before Gold's "whirlwind" arra official pronunciamento from the Was is the *New York Times* of May 24, 195

"PHILADELPHIAN SEIZED AS: ON BASIS OF DATA FROM

"FBI Questioning of Atom l
in British Prison Brings

". . . The Government had ann joint statement made by J. Edgar l McGrath) that Gold had been arrest on information supplied by Dr. Fi

In essence, we see in all this about as hand as ever was practiced. What act Hoover simply forced Dr. Fuchs' hat announcing to the world that Gold h. of Dr. Fuchs' questioning. But we h arrested on "information supplied by l to Hoover's own words the informatio "fit millions of men," but it was also

By way of a final comment on the F must be noted that it took place *witho* ness present. No representative of th office was present. No newspaperman w ing Fuchs as counsel; no one from Br

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Scotland Yard — no one but the harassed prisoner, the two FBI agents and a "prison officer"! How do we know this fact? By the House of Commons' records of a parliamentary debate which took place on May 11 and 18, 1950.

These official records reveal that Members of Parliament were greatly disturbed when they learned of the FBI request to interrogate Fuchs in his cell. Anxiety was expressed as to whether Fuchs was being "legally represented when foreigners are questioning him in our prison." Some M.P.'s demanded that "there be present responsible British scientists." Others proposed that "M.I. 5 and Scotland Yard" were sufficiently "capable of interviewing this man and getting from him, if he is prepared to volunteer it, the information which the Americans are seeking."

On the 18th of May, the House of Commons' records show clearly, the FBI agents in England had not as yet interviewed the prisoner:

"Mr. Ede: A British officer will be present if this interview takes place, and it will be conducted according to British practice."

And so we see that the very first time the FBI could have possibly questioned Dr. Fuchs as to his courier's description was some time later than May 18, or at least three days after Gold's interrogation had begun in Philadelphia! In other words, only after May 18 was the FBI able to obtain even the vague and inaccurate description we have been told about. But we have also been told about a "great search" and a nationwide "man hunt" which Mr. Hoover claims took place over a period of many months, involving each of the fifty-two field offices of the FBI.

In his *Digest* article he describes the combing of tens of thousands of chemical firms, the final narrowing down of "1,500 possibilities" to the "one suspect [who] was beginning to stand out" — Harry Gold. And then, after "heartbreaking setbacks," and renewed efforts "to construct success out of the rubble of defeat . . . in the Spring of 1950, Harry Gold loomed as our most likely candidate."

Finally, there is described the closing-in period of May 15-22, the period we have already outlined.

And yet we have just seen by the House of Commons' records that on the 15th of May the FBI detectives had *not yet* talked to Dr. Fuchs; indeed, could not have talked to him until three or four days later. How then was it possible for them to obtain any information, even inaccurate information, about Gold? How was the FBI able to conduct a nationwide man hunt in the spring of 1950 for a person whose description they did not obtain until the beginning of sum-

mer? The answer, of course, is simply that there wasn't any such man hunt, and that Mr. Hoover's description of it is pure fiction.

Whatever actually happened in the cell of Dr. Fuchs during his interviews with the FBI we cannot know for certain, since there exists no British official confirmation of Mr. Hoover's account. It may be that the wearied prisoner finally resigned himself to the acceptance of Harry Gold with an attitude of total indifference. In all truth, it could not have been of great concern to him at this stage (almost three months after his trial) which person was selected to play the role of his "American partner." It may be that he simply wanted to be left in peace, and that he realized the sooner he satisfied the insistence of the FBI, the sooner the entire disagreeable affair would be forgotten. In this regard, it is safe to venture that he must have been aware that his "cooperation" would create more favorable conditions for a speedier parole.*

But, whatever the actual circumstances of Dr. Fuchs' belated identification, they were extraordinary; and one must agree with Mr. Moorehead that the entire case leaves behind "an enormous field of misgiving and speculation."

Admittedly, it is not feasible to explore all the avenues of the existing possibilities. There are too many half-truths to distinguish from full truth, and too many half-lies to separate from complete falsehood. But the one avenue we have been able to explore in part — the alleged espionage relationship between Dr. Fuchs and Harry Gold — already reveals so many contradictions, "holes" and discrepancies that it is impossible to believe that there existed any such relationship.

In the chapter on Gold which follows we will explore this avenue almost to its very end, and what must be already apparent will become increasingly clear, namely: That it was Harry Gold with his phenomenal talents who contributed most of the illusion of Dr. Klaus Fuchs' authenticity as a Soviet super-spy, and thereby created the illusion of his *own* authenticity as the mysterious American partner.

*With one-third of his fourteen-year sentence off for good behavior, Dr. Fuchs' release should be due on July 1, 1959.

3 | Then There Was Harry Gold

"The impostors or frauds and confidence men frequently belong in this category [psychopathic behavior disorders] . . .

*"The variety and complexity of these frauds and deceptions are determined only by the imagination of man and the gullibility of the public at large."**

IF ever a case history is required to illustrate the above, psychiatrists need but examine the various lives of Harry Gold, real and fancied, as they become revealed by the court records, by the material disclosed officially at his sentencing, by the account written by J. Edgar Hoover of his so-called confession and by this writer's personal investigations.†

In his summation to the Rosenberg jury, the prosecutor emphasized the importance of Gold to the Government's case:

"Harry Gold, who furnished the absolute corroboration of the testimony of the Greenglasses, forged the necessary link in the chain that points indisputably to the guilt of the Rosenbergs."

It is with the object of testing this "necessary link" that we examine the personality of Gold before appraising the worth of his corroboration. For by the time of the Rosenberg trial Gold had become so unquestioningly accepted as the American partner of Dr. Fuchs that the pivotal issue of whether this was truth or fiction never came up.

*Strecher, Ebaugh and Ewalt, *Practical Clinical Psychiatry*, 7th ed., Blakiston, New York, 1951.

†The trial records of the Rosenberg case and the Brothman case (soon to be discussed) are available to the public at the U. S. Courthouse, Foley Square, New York. The pre-sentencing records are available at the U. S. Courthouse in Philadelphia. Regarding J. Edgar Hoover's account of Gold's personal life, see his article in *Reader's Digest*, May, 1951. See also "The Making of a Spy," *Life*, June 12, 1950; and the *New York Times*, May 24, 1950. Personal investigations were made in New York City, Philadelphia, Cincinnati, Albuquerque and Santa Fe.

THEN THERE WAS HA

No one on the Rosenberg jury could Soviet spy might be a self-assumed one, it to be simply a product of his phenom logical needs, since not one of the pert: to them.

It is, therefore, essential to turn to realities he found so intolerable to see tably to the role of an impostor and ; or, in common parlance, a pathologic.

"Here, one finds p ment by fraud a security, love, affe esteem which are

In the year 1910 there lived in B couple named Samuel and Cecilia Gol son was born to them, whom they n immigrated to the United States, short Americanized little Heinrich as Harr maker and in his search for work drag until finally they settled down in a slu

If it was a bitter struggle for the parei small, uprooted son. The new kid on foreigner with an accent to ridicule; he fore doubly alien and despised. Shy a his age, he was dismissed as a "sissy" by and scornfully called "Goldie," a nick became even more timid and withdraw

Added then to the constant apprel miserable childhood filled with the di result was an overdependency on his m overprotection on her part toward hin was born, the event caused more than 1 Harry, who was puny and in ill heal turned out to be a sturdy child and eas

Furthermore, he possessed an advant He was American-born and never bur riority that was to remain with Harry

Here then was this forlorn creature - introverted," as his high school princip

*Strecher, Ebaugh and Ewalt, *op. cit.*

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deal with others on any basis of equality. In his teens, we find him retreating into "a monastic life, a prodigious reader, refraining from normal boyhood activities." As for his mother, she had long ago "decided he was destined to become a scholar and encouraged his bookishness."

Keenly aware how easily Harry might fall into the trade of his father, Mrs. Gold was immensely relieved when he obtained a position in the distillery branch of the Pennsylvania Sugar Company. Proudly, the eighteen-year-old youth told his mother that he was a laboratory assistant; however, it was "really a janitor's job." Yet it offered promise, since his ambition was to become a "brilliant scientist" in the field of chemistry.

For the next ten years of his life there is recorded the most abnormal application of work and study toward this end. Doggedly working by day and going to school at night, he was so diligent that it was common practice for him to work twelve and fourteen hours a day, seven days a week. In subsequent years he "averaged 20 hours a day working in one activity or another."

Certainly the genesis of this excessive drive must have been a need to compensate for his sense of inferiority by achievement, as well as to prove himself worthy of his mother's hopes for his future. Until her death she remained the focal center of his life. At the time of his arrest he was a bachelor of forty, still grieving over her death three years earlier. But even in his twenties "he had no sweethearts, no girl friends, went to no dances or parties." In later years he nervously rejected attempts by friends to bring him together with the opposite sex and although there exists no known evidence of overt homosexuality there does seem to have been a man in his life, one "Tom Black," who played, as we shall see, a most dominant role in his various phantasies.

When Gold was twenty-eight he still lacked his longed-for degree in chemistry. He had made repeated attempts to enroll at "some 10 or 12 technical schools" but apparently his abilities fell short, since most of "his credits were not in shape." Finally he managed to find a school which would admit him. It was the small Catholic college of Xavier in Cincinnati which had the additional advantage of low tuition. The two years he spent there were possibly the happiest in his life, since it was the first time he experienced some measure of self-esteem.

From Father Frederick Miller, who remembers him well, this writer learned that Gold was always treated with unusual respect by classmates and faculty. Since he was much older than the other under-

graduates and had the experience of laboratory work it was natural for him to be considered more a member of the faculty than a student.

Oddly enough, Gold possessed an additional distinction; he was a Jew. As such he was conspicuous among the 600 Catholic boys, but the fact that he had dared choose this particular college of his own accord helped spare him from the anti-Semitism he might have met with elsewhere.

In 1940 he received his B.S.; he was then thirty years of age. When he was re-employed by the Pennsylvania Sugar Company, however, he found that his hard-won diploma yielded him no greater reward than a \$50-per-week job. And whether it was due to his lack of ability or not, his salary remained the same throughout the next five years.

So from 1940 on Gold led his humdrum bachelor existence, living placidly at home with his parents until the war broke out and his draft number was called in 1942. Perhaps more important than anything else would have been the uniform of a G. I. and the opportunity to prove his Americanism and masculinity. Not only were these denied him but his inferiority feelings on both scores were further increased. Whereas he was rejected as 4-F because of hypertension (high blood pressure), his brother Joseph was accepted and served bravely throughout the war, earning three Bronze Stars in the South Pacific.

For some five years following his return from Xavier, Gold had done odd jobs for a chemical engineer in New York City named Abraham Brothman, using the laboratory facilities of the sugar plant surreptitiously. Evidently worried that Brothman might be indiscreet in chemistry circles and that his unauthorized use of the laboratory might get back to his Philadelphia employers, he gave his name as "Frank Kessler." And since it was necessary to give Brothman some address where he could be reached he gave the name and address of a "friend," who, of course, was himself.

Early in 1946 Pennsylvania Sugar sold its holdings to another firm and Gold was forced to find a position elsewhere. By this time Brothman had his own laboratory and invited Gold to work in New York City at double his previous salary. Since it was no longer necessary to continue as "Frank Kessler" Gold lamely admitted the pseudonym and explained the reason he had used it. But there remained another obstacle, for though the thirty-six-year-old bachelor was eager to start on his new job at once his mother exerted her domination over him to this extraordinary extent:

"Celia Gold was inconsolable when Harry told of his impending move to New York. Promises that he would come home to

Philadelphia every single week-end failed to dry her tears. . . . Harry Gold got so upset over his mother's complaints that he postponed going to work in New York until June, 1946, four whole months after he accepted Brothman's offer."^{*}

In May, 1947, after Gold had been working for Brothman for about a year the two were questioned by the FBI concerning their past relations with one Jacob Golos, who had been suspected of espionage activities previous to his death in 1943. Denying any knowledge of such activities, Brothman stated that Golos had come to him as a representative of Amtorg, the official Soviet purchasing agency in the United States, with the idea of buying rights to a mixing apparatus Brothman had invented and had offered for sale through a trade journal.

When the agents questioned Gold separately he told them he had first met Golos through another chemist and that Golos had asked him to make some laboratory checks on Brothman's mixing apparatus. One month later Brothman and Gold were requested to appear before the Grand Jury, and evidently their testimony was found satisfactory since they were excused and the inquiry resulted in "no bill."[†]

All during these six years Gold's relationship with Brothman had been on a warm, personal level. Gold admired his employer for his superior scientific training, and Brothman appreciated Gold's readiness for hard work. Eventually, he promised Gold a share in the business.

However, in September, 1947, Gold's mother died and from that time on he became increasingly hostile toward Brothman. He blamed himself so bitterly for his mother's death that he often considered suicide. As he defined his feelings later: If he had not allowed himself to be seduced by Brothman away from his mother she might have lived a good many years more. And the tragic irony of it all was that Brothman's blandishments had proved illusory, for whenever the firm had run into financial difficulties he had received only partial pay. As Gold expressed it:

"When there was no money, I was a partner. When there was money, I became an employee."[‡]

Recriminations followed, sharpened by Gold's demands for \$4,000 back pay. Things came to such a pass in June, 1948, that Gold was

^{*}Pilat, *op. cit.*

[†]J. Edgar Hoover, *op. cit.*

[‡]Brothman trial record.

threatening suit and his employer laboratory equipment.

In September Gold obtained a \$70-a-week salary as a laboratory technician of the Philadelphia General Hospital. He placed himself, as he claims, "in volition" after having "confessed" to being the Fuchs.

Such, then, in substance, was the reality which was being denied from his fancied life. In short, full manhood with a crying need for human contact and love. With no wife of his own, he had not even the compensation which he had so desperately longed for. Save for the relationship which had ever existed for him between human emotions, such a barren existence was not possible.

We know that his private life was one of withdrawal and that he tried to answer the call of duty with an excess of work, exhausting himself with no physical energy left to give to anything else. What shape and form these phantasies took in the realm of conjecture, but fortunately he described them in utmost detail. And he demonstrated almost clinically "the real thing."

ii

Some six months after Gold's arrest Alvin Karpis was charged that he had conspired with the Grand Jury's investigation of espionage in November, 1950. The presiding judge was Judge Kaufman, who four months later was to be tried. The prosecutor was U. S. Attorney General. This time was preparing his case against the chief assistant at both trials was Roy M. Star witnesses were Harry Gold and Elizabeth Rosenberg witnesses at the Rosenberg trial.

There were other striking features about the Brothman trial which give strong basis for the belief that it was to a great extent a "try-out" for the big A-bomb spy "show" to take place in March, 1951.

For four and one-half days of the one-week trial Harry Gold was on the witness stand and it is from his own direct examination and cross-examination that we have the astounding tale of his romances, courtship, honeymoon, marriage, children, separation and divorce as recounted to Brothman, to fellow employees, to friends and acquaintances over a period of six years. Here, culled from the Brothman trial record, are the highlights as Gold had told them "in intimate detail":

While riding in a trolley car one day in Philadelphia he had met and fallen in love with a beautiful girl named Helen who had "one brown eye and one blue eye." He had tried to court her but a wealthy rival named Frank, whose uncle manufactured peanut-chew candy, had won out.

However, through Helen he had met another Philadelphia girl named Sarah, "a young, gawky, long-legged girl" who worked as a model in Gimbels and in time "developed into a comely, good-looking, young lady."

While courting Sarah, Gold had learned of another "suitor" — an "underworld character . . . with a reputation for conscripting girls for brothels." "In order to save her" from this sinister fate Gold was spurred into marriage despite some drawbacks about Sarah's family.

Her mother "was a slovenly woman, a poor housekeeper" and her father, rumored to be a gambler and a shiftless person, "could not support the family." Because Gold was "broke" at the time, the wedding had to be postponed again and again.

Finally the two lovers were wed and enjoyed their honeymoon in Atlantic City.

In the year 1935 Gold's "wife" gave birth to twins, a girl and boy named Essie and David. Soon after, Gold purchased a house "for his wife and family."

In the years that followed, as the twins grew older, Gold would tell incidents of their growing up, of their progress in school, how at one time little Essie broke her leg while playing, and another time how the boy David had developed polio but had fortunately recovered.

When in 1945 Brothman had first suggested to Gold that he work for him full time in New York Gold had declined, giving as his reason that "his wife would not like to be transplanted"

to New York City from Abington, the suburb of Philadelphia where they had bought their new home. In fact, whenever he had to leave home on business trips Sarah had "resented" his absences. Eventually this caused a serious "rift" between Gold and his wife, since she had started to have an affair with an "elderly, rich real estate broker."

When this situation had resulted finally in his home being "broken up," Gold would sadly tell friends that he traveled on week ends to Abington to secretly watch his children "playing in the park," and that he surreptitiously "looked at them from afar," since he was unable to bear the pain of visiting them in his formerly happy home.

In addition to this tragedy of his "family life," Gold had also told of "the death of [his] brother while in service for his country." In 1945 he had tearfully described how his brother had "died overseas" while completing a parachute jump in Hollandia, New Guinea. Later, he had gone on to tell that his parents in their grief had sought to replace their hero son, Joseph, by "taking into the family like a son" a cousin, also named Joe.

Toward the conclusion of Gold's direct testimony, we find the following admission:

"Contrary to that story . . . I actually had no wife and two twin children . . . I was a bachelor and had always been one. . . .

"Sometime before I came to work for Abe [Brothman] I had told him that my brother had been killed in action in the South Pacific, and [after the FBI visit of May, 1947] I told Abe that this was not so, that my brother was still alive."

Thus, each and every detail of the above incidents was shown to have been entirely fictitious from start to finish!

In short, Gold had created a completely mythical life, never having paid court to any Helen, never having married any Sarah, never having had a wedding or a honeymoon or children or a house in Abington or anything remotely resembling the family and circumstances he had described so elaborately and so successfully for so many years.

It does appear, however, that he did base his phantasies on two actual women named Helen and Sarah, both of whom, of course, remained entirely unaware of their participation in Gold's imaginary romances. But what is especially revealing is how, at the Brothman trial, Gold confuses his imaginary wife with his mother or, rather, substitutes one for the other:

Q. Did you not say as a result of your being away from home in 1942 and 1943 that Sarah resented your absences — your wife, Sarah?

A. Actually, it was my mother.

And concerning the purchase of the home in Abington and his "wife's" refusal to be transplanted to New York:

"That was partly false but it was based on truth. My mother and I had purchased a home and I didn't want to be transplanted to New York."

But even so the actual facts were considerably different, for it was his father together with his brother who had really purchased the house.

This tendency to substitute himself for his father and brother reached its height with his wishful "killing" of at least one of these rivals, his brother Joseph. Apparently Gold was so guilt-stricken that he had to invent the story of his parents' replacement of their lost son with a cousin of the same name, *which incident was also a complete fabrication.*

At the Brothman trial Gold had ready a glib explanation for all this fabulous deception. It was that he had been assigned to contact Brothman not by Jacob Golos but by a Soviet superior named "Sam," and that it was "Sam" who had instructed him to present himself to Brothman as a family man so that he would appear less "unstable."*

The utter absurdity of the explanation is exposed by its own irrationality: Why should the spy-master "Sam" endanger the safety of his entire operation by instructing his agent to play a complicated fictitious role in addition to his espionage tasks — a role requiring a daily continuity of lies told to numerous people, and a role so easily exposed by the slightest happenstance?

Moreover there was the direct challenge put to Gold by Brothman's attorney as follows: If it was true that he and Brothman had been brother spies "working toward a common end" for so many years then why was it necessary for Gold to continue the elaboration

*In the opinion of a number of psychologists with whom this writer conferred, this explanation reveals how unstable Gold appeared to himself and how desperately he longed to be taken for a virile married man who could produce twins. And yet, as pointed out, it was because of his fundamental inability to enjoy a normal relationship, even in phantasy, that he surrendered both wife and children to an older man, "the elderly, rich real-estate broker."

of the fiction? Why didn't he simply for the pretense, just as he had once for using the name Frank Kessler? finished this lame excuse:

"I had become so tangled up in to continue telling an occasional the whole hideous mess out."

But then he adds, almost in awe of his

"It is a wonder that steam didn't

In passing, comment might be made on Gold's phraseology. Apparently a great deal consisted of mystery stories, detective tales, and the like. It appears that Gold was in the habit of writing in the style of the night.* Here, from the Brothman trial, the purple prose he seems to have

"I knew that inevitably this nest of cards . . . could . . ."

"I knew that once the FBI began to sniff that was my life, once they began to sniff that horrible skein would become untangled."

In addition he tells us that he always had a "whole loathsome structure" of his own in his frequent testimony at the Rosenberg trial concerning one of his early "Soviet subjects."

"He was tall, about 6 feet 2, had a very prominent nose. He walked with a very pronounced limp. . . ."

Returning to the standard definition of "phantasia" or the pathology of the impostor achieves through the means of love and affection which he has continued:

"The lies are seemingly phantasy the more or less normal phantasies two-fold process of elaboration and of material in the effort to continue

*Pilat, *op. cit.*, pp. 4, 54, 55.

†Record, p. 842.

"Pathologic swindling is a natural outgrowth of pathologic lying and is often the realistic acting out of the phantasy."^{*}

All through the story of Gold's alleged spy career there is the unmistakable evidence of his acting out of his phantasies as a compensation for his barren emotional life. For example, in his choice of spy pseudonyms we see that he utilizes his own father's name, Samuel, to give it to another Russian-born person who becomes his alleged Soviet superior, that is, "Sam." In other words a direct substitute for his parent, who undoubtedly must have pestered his bachelor son on numerous occasions to get married, settle down and have children. Incidentally, according to Gold's testimony it was this "Sam" who assigned him to his original espionage meeting with Dr. Fuchs.

Examining the choice of Gold's pseudonyms, it is significant that they were the names of actual persons whom he secretly envied and would have liked to be. For example there was his rival, the wealthy "Frank," mentioned earlier, who really did marry the beautiful "Helen." Thus one of the pseudonyms Gold assumed while posing as a happily married man was that of "Frank Kessler." Again in his testimony at the Brothman trial we find there was an actual Martin who married the "Sarah" whom Gold imagined to be his wife as well as the mother of his twins. Thus another spy pseudonym which Gold assumed was the name of this imaginary rival.

To restate it: The two real women Helen and Sarah, who were featured so prominently in Gold's *imaginary* love life but who were completely ignorant or scarcely aware of his existence, actually married two men, Frank and Martin, whose names figured with equal prominence in Gold's imaginary spy life.

In short, one has every justification to conclude that there was no more a Soviet superior called "Sam" than there was a wife called "Sarah" or a pair of twins called "Essie" and "David."[†]

The ease with which Gold could juggle these names, as well as various real incidents, from one imaginary life to another demonstrates that there was no possible way to distinguish between them, i.e., between his admitted phantasy love life and his professed espionage life. Both lives were so intricately interwoven — as Gold himself admits in speaking of being enmeshed in a net, in a snarl and

^{*}Strecher, et al., *op. cit.* See also Alfred P. Noyes, *Modern Clinical Psychiatry*, Philadelphia, 1951.

[†]The name of David is resorted to again during Gold's alleged visit to the Greenglasses in Albuquerque, when he is alleged to have used the pseudonym "Dave." (See Record, p. 826.)

in a tangled skein — that no possible line can be drawn between what he admits is pure fiction and what he claims is so-help-me-God truth.

And yet at the trial of Brothman, incredible as it may seem, a jury and a judge presumed that they were able to draw such a line. Judge Irving Kaufman showed that he was clearly aware of Gold's special talents when he addressed Brothman's attorney impatiently:

The Court: . . . The witness [Gold] said he concocted these things from beginning to end. Are you going to take each and every detail he concocted?

How, then, was it possible for Judge Kaufman to extract or pin down the truth in Gold's testimony at any one point? If he was aware that Gold was capable of concocting a mythical family life in every detail for six years *from beginning to end*, how could he know that Gold's espionage life was not also a complete concoction?

Gold was a major witness in the Rosenberg trial, yet what the reader knows at this point concerning Gold's astonishing facility to invent and spin any yarn in the minutest detail was totally unknown to the Rosenberg jury! Let this be clear — not one juror was aware that Gold had proved this facility, based on years of experience in holding a fabrication together among scores of friends, that he displayed a most remarkable ingenuity in juggling discrepancies, covering up loopholes and elaborating "by the continuous addition of material in the effort to continue the appearance of veracity."

Only two men at the Rosenberg trial were in full possession of this highly significant information, the same two who had served as prosecutor and presiding judge at the Brothman trial, namely — U. S. Attorney Saypol and Judge Kaufman.

And let it be stated emphatically that it was largely on the basis of Gold's supporting testimony against the Rosenbergs, which Saypol declared was "the necessary link" in the chain of their guilt, that their conviction was obtained and their sentence of death imposed.

It was the testimony, as Saypol and Kaufman both knew, of a self-admitted pathologic impostor whose only means of gratifying a lifetime of starved emotional needs was in the acting out of a spy career based on nothing more than his "phantasy wish-fulfillments."

iii

In 1947, according to Mr. Hoover, the FBI was well aware of the potential value of Gold as an "accomplished deceiver," because its investigation of him had "developed some highly useful informa-

tion." Exactly what went on between Gold and the FBI until they were ready to produce him as the "American confederate" of Dr. Fuchs we have no way of knowing. But we can examine how his talents were utilized to fabricate a spy biography and we can ask whether or not this new fabrication contained any more truth than the others.

What is the FBI explanation of how Gold became a spy for the Russians? At the outset we learn that the "Tom Black" earlier referred to was the mysterious gentleman most responsible for Gold's downfall. And, whether Black was his true name or not, we find his identity further cloaked by Mr. Hoover describing him in the *Reader's Digest* as:

"... A singular character in Jersey City whom we shall call Troy Niles. ...

"Niles [Black] was an eccentric individual who liked to coil a pet black snake around his neck and who pitched marbles to a crow that was trained to catch them in flight."

If we are to believe Mr. Hoover, it was this rather grotesque "Communist" who first "captivated" Gold back in 1932. "By precise and insidious techniques," we are told, Gold was soon "softened up" for his spy career. These techniques consisted of his being taken to Greenwich Village "gab-fests composed of Communists, parlor pinks, leftist intelligentsia, and people of that sort."

But while Gold was apparently impressed with Black's charming of crows and snakes, he found the gab-fests "about the drabest affairs of anything he had ever been to in his life." As for his opinion of Communists, there is his testimony at the Brothman trial:

"I didn't like them. ... I thought they were a lot of wacked-up Bohemians."

And so we come upon the unique fact that Gold actually disliked Communists (except, it appears, Tom Black); and to such an extent that membership in the Communist Party was abhorrent to him. Here is his attorney's statement at his sentencing:

"One time he told me that he thought Communism as a political dogma was no more than the victory of mediocrity in Russia. Let the record in this case show ... that Harry Gold has never been a Communist and he is not a Communist now, nor was he in those younger days."

If, according to the theory of Mr. Hoover, all adherents to Communism are potential spies and if, as we have seen, Gold was hostile

to Communism, then how does one account for his joining the Communist Party? he do it for money? Not at all. For the FBI has never asked for or received any financial explanation was thought necessary. At the two astonishing reasons which Gold

The Witness: The first was a direct cause of the fact that he had gotten out of the depression. ... We were a family and we would have hated to go on that.

... The second reason was that joining the Communist party. I did

Thus we are asked to believe that Gold's "debt of gratitude" to Black was only way he could discharge it was to give his life for a government he despised!

However, it is his second reason that is more revealing. For here he admits that his motive was simply a means to stop Black from putting up a double talk would mean that he had become a Communist (Black's demand that Gold betray his country).

It is significant that Mr. Hoover, in advancing Gold's two feeble motivations, advances the interpretation that because Gold's parents were the word "Russia" or "the sound of money" and that "the name vaguely stirred" him.

Having asked why Gold became a spy, the Soviet spy-masters were so eager and ready to trust him with their most precious secrets.

It seems strange, in the face of Gold's testimony, that they would take such grave meetings with him were conducted starting with one "Paul Smith" to whom Gold's "bitter night in the winter" of 1935 was which is described by Mr. Hoover as "agents."

Following Smith, there came a success "Steve Swartz," described as "a virtual and weighing approximately 220 pounds

for his motivations? Did it show clearly that Gold was a Jew. But evidently some of the Brothman trial these were considered:

of gratitude to Black because of a job during the worst years with a fierce sort of pride. . . . Black saved us from

Black off my neck about that. I didn't like them.

because of a temporary job so overwhelming that they threatened to betray his country and risk

it staggered the sane mind. of gratitude at all but simply to help him. In sum total, his sense of an obligation to the party (in the party) by agreeing

avoiding any mention of his own other mystical inheritance had been born in Russia and an odd appeal" for him

to spy, let us also ask why he obtained his services and so on his contact, Dr. Fuchs.

unconcealed political hostility. For we are told that their was a cloak-and-dagger style, Black introduced him one with whom he took a walk, favorite technique of Red

of other Soviet superiors: that, about six feet two inches tall, long arms, large feet,

broad shoulders and high cheek bones."* Then came another Russian called "Fred," who taught Gold the secrets of spy technique:

"... How to determine whether he was being followed: stop and tie a shoe-lace or walk up a deserted side street. And if Gold had a piece of paper he wanted to destroy, tear the paper into very small pieces and drop each piece into a separate block."†

And in this manner, we are told by Mr. Hoover, the Russians kept "grooming him" for future assignments. Let us see, therefore, what vital secrets they obtained from our young laboratory assistant.

From Mr. Hoover we learn that Gold's espionage at Pennsylvania Sugar included the transmission of "data on lanolin" (commonly used for hair pomades), "a soap-making technique, a carbon-dioxide recovery, and industrial solvents of the type used in varnishes and lacquer." There was "one secret" that was "badly wanted by the Russians . . . an ethyl-alcohol process," but this, Gold was unable to obtain.‡

During these very same years there were more than "1,540 scientific institutes and laboratories in the Soviet Union," employing tens of thousands of skilled chemists and engineers in addition to hundreds of British, American, French, Swedish and German technicians of every category.§ To make any further comment than this would be to dignify an absurdity.

A great deal of Gold's testimony is concerned with his alleged espionage meetings with Brothman for the transmission of the results of another of his experiments. This one had to do with synthetic rubber. But here, too, matters are stood upon their head, for we find in *Nation's Business* of September, 1953, that the U.S.S.R. was far

*The reader will recall that the blond cat-man mentioned earlier in this chapter was also precisely "6 feet 2." One cannot help commenting on the tendency of the Soviet spy-masters to select such "giants" for their secret agents, since in all standard spy and counterspy textbooks emphasis is given to the necessity of selecting the most inconspicuous persons.

†Hoover, *op. cit.*

Note: Certainly, no example of a spy behaving more suspiciously could be furnished than this picture of Gold leaving a trail of torn bits of paper behind him for blocks!

‡From the record of Gold's sentencing, we learn that all these so-called secrets were nothing more than commercial processes known to all countries for decades. For example, the ethyl chloride process was simply "used for a local anaesthetic." As for the carbon dioxide recovery, this had "no more sinister use than in refrigerants and the operation of such things as soda fountains."

§*Nation's Business*, September, 1953. See also article in *Newsweek*, "Red Science," March 1, 1954.

more advanced than we in this field, not only in 1943, the time of the alleged espionage, but as early as 1930:

"A decade before we embarked upon our synthetic rubber program, the USSR was producing it in quantity with potato alcohol or limestone as key ingredients."

Having thus weighed the value of the "secrets" which Gold claims to have delivered to the Russians, let us now test the probability of his relations with them.

Suppose we glance at the record of his spy career, as disclosed by his own attorney previous to his sentencing. Here we see one example after another of professed trickery and deviousness in the recruiting of additional spies for the network:

"He [Gold] began feeding these people in New York, these Soviet agents — fictitious names, any number of them, and would report to them on what he was doing with these fictitious names."

"The custom or practice of supplying Fred with fictitious names was continued. . . ."

"... He again resorted to fiction in that he made up trips to Dayton which he never took — and he did that in order to keep these men off his back. . . ."

Just as he had admitted concocting a mythical wife and children, Gold now admits the fabrication of a host of recruits to the extent of giving reports of fictional meetings with them and imaginary trips to see them! Thus we have the disclosure of phantasy within phantasy.

Indeed, with this disordered mind, one can only ask helplessly: Where does falsehood end and truth begin?

If he could make up trips to Dayton, could he not also make up trips to Santa Fe for his alleged meetings with Dr. Fuchs? If he could be so glib with Soviet agents about any number of fictitious names and invented meetings, could he not also be glib with FBI agents about any number of invented meetings with Fuchs, Greenglass and Yakovlev?

How can anyone such as a Judge Kaufman venture with positive assurance: Here Gold is lying and here he is not?

But even if we wish to grant every word about Gold's espionage to be gospel truth, Mr. Hoover could scarcely support the theory that the Russians were interested merely in securing endless lists of fictitious names! He cannot on the one hand say there exists a formidably efficient Russian spy network and on the other hand show it to be as gullible as Gold would have us believe.

Is it likely that the Soviets would have forced upon this untrustworthy and unwilling person *the most important* assignment of all recorded espionage? Why, with all the thousands of "potential Communist spies" in the United States which the Russians are supposed to have at their beck and call, would they not choose one of these to be Dr. Fuchs' courier instead of Gold? If we are to take seriously the accusations against Abraham Brothman, they had at their disposal not only a trusted Communist but a mathematical genius. In any case, why not a choice of someone whose espionage achievements included something more than soap and varnish formulae and a list of non-existent recruits?

iv

Soon after the FBI announced the capture of Gold, a general press release was broadcast that the feat had been accomplished because of one thoughtless mistake he had once committed:

"TRICK QUESTION LED TO SPY CONFESSION

**"Gold Was Trapped by Denial He Ever Had Been
Out West — Evidence Refuted Him"**

The evidence was reported to have been a certain "museum" map of Santa Fe found in Gold's room by the FBI. Here is Mr. Hoover's article describing its source:

"Like a casual tourist he [Gold] entered a museum [in Santa Fe] and obtained a city map. Now he would not have to ask questions to the Castillo Street Bridge — he aimed at leaving not the slightest clue. Little did he suspect that the day would come when he would wish he had never picked up that map."

Now five years later, Mr. Hoover relates, after the week of useless questioning by the FBI, Gold himself suggested a search of his room, and the following occurred:

"Suddenly, an agent dredged up from behind a bookcase a yellow folder marked 'Santa Fe, the Capitol City.'...

"Silently, Gold was shown the folder. A startled gleam flashed through his eyes, his mouth fell open and he seemed momentarily to freeze.

"The map he had obtained in the Santa Fe Museum so that he could find the way to the bridge without asking questions!"

Following this denouement, Mr. Hoover, realizing he was finally trapped, said:

"'I... I am the man to whom Klatskanie.'"

Now that we have Mr. Hoover's version record at Gold's sentencing. Here is the torney, Mr. Hamilton:

That in late December of 1944 Dr. Fuchs came to Cambridge, and that it was *there* that the Santa Fe rendezvous for June 2, 1945, and it was

"... Fuchs gave to Gold a map of Santa Fe which had never been, marked with the place of the rendezvous. (emphasis added.)

Why, then, are we given this fanciful Gold, playing the casual tourist in Santa Fe in the museum, *when the court record shows that Gold had received the map from Dr. Fuchs in his room?*

But, by whatever means Gold is supposed to have obtained the map, there is still the implied claim that Gold came back from New Mexico to Philadelphia, Pennsylvania, less than a week before his sentencing, and keep this incriminating document as a souvenir. Are we to believe Hoover and Gold on this point? Or are we to believe that the map slipped down behind the bookcase where it was found until "dredged up" by the FBI.

One might be willing to accept even this, if Mr. Hoover had not built up his case so cautiously — and concerning this very matter, would not even risk asking a passer-by in the street direction.†

*The date of Gold's appearance for sentencing was five months later in May, 1951. The article appeared in Max, 1951. It was T. Scott Miller, chief FBI agent in charge of the case, who was aware of Gold's statement that he had received the map from Dr. Fuchs. (See *This Week* magazine article by T. Scott Miller, "The Toughest Case?" in which the fiction is continued.) As a matter of curiosity, this writer asked Santa Fe, including two police officers, the date of the Castillo Street Bridge? Despite his assurance that there was no sign of suspicion and not even the passers-by gave wrong directions.

ver goes on to tell that abruptly blurted out":

Fuchs gave his informa-

let us turn to the official version offered by his at-

hs had met with Gold in had arranged their Santa as the what:

anta Fe, where he [Gold] of the rendezvous." (Em-

story by Mr. Hoover that e, had obtained the map ates so clearly that Gold Cambridge?*

ed to have acquired the was brought all the way only to be tossed thought- (Why? Did he wish to venir?) And there, if we nt, it is supposed to have it remained for five years

ch a case of studied care- Gold so exceedingly So cautious that Gold city of 25,000 a harmless

s Dec. 7, 1950; Mr. Hoover's Note: Present at the hearing of Gold's case. Hence, Mr. had received the map from over, "What Was the FBI's ed as late as Feb. 20, 1955.) less than twenty persons in ngerous question: "Where owing sufficient furtiveness, backward glance. Most of

In addition, we were told that Gold had been "groomed" by his spy-masters on methods of destroying incriminating papers. And yet the one and only piece of paper which could possibly connect him with Dr. Fuchs is the one Gold fails to destroy!

Now we have been told that Gold's "confession," given after seven days of questioning, had resulted in the discovery of the "museum" map. According to Mr. Hoover's version, this was the end of the "long, painstaking quest." Finally, the FBI had trapped the most "wanted person" in the United States. And we are further told that:

"In all the history of the FBI there never was a more important problem than this one."

Hence, one would normally expect that trained and alert FBI detectives, with appetites whetted, would immediately proceed to make a thorough search of the rest of Gold's house for other incriminating documents that might help them convict other members of the spy ring. But what happens on May 22, the day of Gold's "confession"? Do they make their thorough search on that day? Not at all. Do they make even a routine search? No, not even that. When do they make their search? It is significant that Mr. Hoover is strangely silent on this question.

According to the Brothman trial record, it was not until June 3, *thirteen days later!* Moreover, we find that this search was divided into two parts, since another search was conducted on June 6, an additional three days later.

Now let us see where the incriminating evidence was "discovered" after this curious delay, according to the testimony of FBI detective Fred Birkby. First he searched the living room, but found nothing. Then he descended to the basement, and it was there that he found "a large wooden box, approximately three feet square filled with papers and blueprints":

[Birkby]: There was similar material in a closet approximately four feet across and running from the floor to the ceiling.

In this closet, conveniently enough, there was the most damaging evidence against Gold's former employer, Abraham Brothman. It was a red folder marked "A.B.'s stuff." And in this folder, even more conveniently, there turned out to be a certain "small white card" containing the details of Gold's first espionage rendezvous with Brothman, allegedly prearranged *nine years earlier* by their mutual Soviet superior "Sam." It should be added that all these damning

details happened to be in Gold's own handwriting, and that he made no effort to destroy this card in all the nine years since he had written it!*

First, we see that according to Gold's testimony there was "a huge amount of material," and therefore not at all difficult to find in that very large crate and conspicuous closet. In other words, if the FBI detectives had merely gone down into the basement with Gold on May 22, the evidence would have stared them in the face.

Next, we see that there was more than sufficient time for this distinctive red, initialed folder to be "planted," either during the seven days of questioning when Gold had been *free to go home every night*, or during the two and one-half weeks after his "confession."

Incidentally, there is a suspicious artlessness in Birkby's description of the search. For if Gold had been truly as "cooperative" as was claimed, then why didn't the detective proceed directly to his search of the crate and closet in the basement?

Third, we see that there was a period of two weeks for the "making of a case" against Brothman *before* the folder was found. Fourth, there is the suspicious interval between June 3 and 6, the two dates of the search. And it is highly significant that the point was carefully covered by one of Saypol's assistants, Mr. Foley, when he asked Birkby on which date he had found the folder. The dutiful response was: "On June 3, 1950."

Pursuing another line of inquiry, that of probability, we come upon even more suspicious facts. We have already mentioned the incredible claim that Gold had brought home and preserved the incriminating card for nine years. But, in his testimony at the Brothman trial, it is also disclosed that the FBI had searched his house as far back as May of 1947, *three years before his arrest*.

This search had been made in connection with Gold's original FBI interrogation in that year. Thus the question arises: Since this "small white card" existed in 1947, why didn't the FBI discover it *then*, instead of three years later?

And now comes the "built-in" excuse, which has become such a stock part of the political frame-up, with Gold attempting to explain away the FBI's failure to find "A.B.'s stuff" at that time. How? Gold simply testifies that the 1947 search was but a " cursory search." But this is preposterous, for, even in a cursory search, how could the highly trained FBI overlook a three-foot-square crate, a

*Thus, here again, we are asked to believe that a spy "groomed" to destroy dangerous documents brings home and carefully retains the very evidence that will put him in jail!

four-foot ceiling-high closet, apparently bulging not only with "incriminating" blueprints, but with the conspicuously marked folder bearing Abraham Brothman's initials?

And why, after so narrow an escape in 1947, didn't Gold make an effort to destroy these incriminating documents? Indeed, why, when he read the frightening news of Dr. Fuchs' confession in early February, 1950, did he still make no effort to destroy this evidence of his espionage? And finally, why, more than three months later, during those seven days of questioning in mid-May, with every opportunity to do so, did he still take no normal measures to protect himself?

By way of a reply, it is not at all surprising that one of the FBI men involved in this so-called search aptly referred to Gold's cellar hoard of documents with the tongue-in-cheek comment that it was akin to "Fibber McGee's closet." This is testified to with some amusement by Gold himself, and it would appear to be but another way of Gold expressing his self-awe, when he said, "It's a wonder that steam didn't come out of my ears."

A word of explanation about these "incriminating" blueprints. It will be recalled that many were produced at Brothman's trial as "evidence" of his and Gold's espionage for the Soviet spy apparatus, despite the fact that they were merely "flow-sheets" describing soap-making, lanolin, anaesthetics and varnish techniques. In fact, Gold admitted that one set of "espionage" blueprints described Brothman's invention of a process "for the preparation of shortening materials from vegetable oils, such as Crisco and Spry!"

Another invention of Brothman's had been the well known "Aerosol" fly-spray container.*

Now Gold, a routine chemist's assistant, who had almost worshipped Brothman professionally, had religiously saved a copy of almost every blueprint and mathematical notation Brothman had ever given him for laboratory checking. To him they were prized research experiments worth keeping for future reference or study. So much was true. And so, we come to another example of how a full truth is easily twisted into something else by the smallest addition, for at the Brothman trial these stacks of harmless blueprints were

*Concerning this last device allegedly delivered to the Russians, there was an amusing passage at the trial. Saypol was pressing Gold to tell what "Brothman's connection with the Aerosol bomb was," when the latter's counsel made the following request:

Mr. Kleinman: I wonder if the District Attorney would favor me by calling it the Aerosol insecticide?... There might be confusion if we talk about a bomb right along. (Brothman Record.)

presented by Mr. Saypol as Government 1 and the "small white card" so convenient came Government Exhibit 10 — magical and a shortening formula into Soviet espionage.

It must be abundantly clear why the Gold's home all during the week of his two weeks following his alleged "confession" was discussed and decided what, how, where and when.

In line with our anatomy of frame-up, in such a way that no one actually would say or do, but they would merely indicate he happen to have anything in his house had met Brothman secretly on instructions. Perhaps among all those blueprints he had nothing — just as he had forgotten about them.

That Gold did not take the trouble to make a folder so obviously marked with the spy's actual initials further demonstrates by hitting everything right on the nose. A pattern of each official looking out for himself willing to take it upon himself to rectify.

There is much to be said about this became the prosecution's only concrete connections with his Soviet superior "Sat" the deciding factor in the conviction of Brothman's trial, we will see how the same Mr. Saypol's small white card (the Hotel Hilton registration card) porting to be the only concrete evidence in Albuquerque. And this card too will be seen as earmarks of convenient prearrangement.

U

"The pathologic liar perhaps urge of lying. As the lies are elaborated clearly the patient has truth or falsehood."

Reviewing briefly the official version one is taken aback by the sheer impudence of the description of Gold which failed to do

*Strecher, et al., op. cit.

to 19 inclusive, among them being a fly-spray

search made of nor during the was needed to

had to be made exactly what to needs were. (Did it help prove he Soviet superior? forgotten some-map?

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te card," which Gold's espionage without doubt at the Rosenberg ces still another), this one pur- had ever visited ll the suspicious

e satisfaction and efficient objective. questionable how distinguish between

of Harry Gold, fabrication. From to the man hunt

which never took place, from the apocryphal museum map which never trapped him to the two vital Santa Fe meetings which are absent in the Fuchs indictment, from the Communist indoctrination of Gold who was never indoctrinated, to all the rest of the claptrap about Tom Black with his charmed snake and marble-catching crow, it is such a hodgepodge of incredibility that one can attribute its wide acceptance only to the Hitlerian axiom: "The bigger the lie, the more it will be believed."

In other words, we have been given a story so egregiously improbable that that conclusion is inescapable. And as in everything else, when one is given an unreasonable explanation of a certain set of facts, one is forced to search for a reasonable one. Hence there arises the inevitable question:

What were the actual circumstances and motivations behind Gold's confession vis-à-vis the requirements and objectives of the FBI? Frankly, we do not know all the answers. What took place between Harry Gold and the FBI was behind closed doors and involved a period of many years. But we do know that in the pathologic Gold it was not difficult for the FBI to recognize the ideal counterpart of, and even a better tool than, the Hollander Van der Lubbe, used so successfully by Goering to create the Reichstag Fire hoax.

We also know from our study of the political setting so necessary for a frame-up that the time was ripe for the creation of an internal "enemy." For this purpose, Gold served as a perfect symbol for the American intermediary between Dr. Fuchs and the Soviet Vice-Consul, Anatoli Yakovlev.* Not only did Gold (as brought out by Hoover: "Golodnitsky") meet with the usual requirements of a foreign-sounding name coupled with Jewish parents of Russian birth, but he could also be given the impressive title of "biochemist" to better pass him off to the public as a scientist.

There was only one drawback about Gold from the viewpoint of the FBI. He was not a member of the Communist Party. But that problem could readily be solved by having him testify that he had collected Communist Party dues from Abraham Brothman in idle moments between espionage exploits, and establishing that he had been originally "indoctrinated" in Communism by Tom Black.

That Gold could be relied upon to supply such "dressing" convincingly and in the most minute detail, the FBI scarcely had the slightest doubt. With Gold's amazing record of his mythical private lives, there was sufficient proof that he had been tried and

*Yakovlev was tried in absentia as a co-conspirator of Gold, the Rosenbergs, Sobell and the Greenglasses.

tested for years. With such a witness there need never be the slightest concern about "going over the story." Not only were his powers of retention almost photographic, but with his fertile imagination he could be relied upon to meet any contingency arising in cross-examination. Not only could he resist successfully any attempt to shake him, but he could even confound his questioner with an unexpected outpouring of phantasied detail. Last and most important, Gold believed or seemed to believe his own phantasies almost as promptly as he invented them — and not merely during the time he was describing them, but in a permanent sense. Hence, he could be depended on with each additional court appearance to achieve "with more and more assurance . . . the appearance of veracity."*

vi

"A weird procession composed of a prostitute, two syphilitics, a psychopathic liar and a woman suffering from spiritualist hallucinations."†

With almost all sensational cases, and especially with political frame-ups, there seems to be present some malodorous attraction. It is almost like a carrion stench that draws the hovering scavengers. Indeed, one might say that the evil of frame-up attracts evil.

In the Mooney case, as we have footnoted in Chapter I, there was the "honest cattleman" Oxman, who became the one witness "whom everyone believed." Only later was it learned that Oxman had been previously indicted for criminal fraud and had been a bigamist for many years. In that same case we are told of the "weird procession" of witnesses presented by the prosecution: "The drug-addict . . . the self-torturing masochists who 'confess' . . . the exhibitionists, who cannot resist the opportunity for publicity and fame . . . and the sadists."

In Clarence Darrow's autobiography telling of the frame-up of "Big Bill" Haywood we find him describing the prosecution's star witness, Harry Orchard, as "easily the greatest retail killer that the world has ever known" if one was to believe his boasting on the

*Gold was not cross-examined by the defense at the Rosenberg trial. For a discussion of Mr. Bloch's reasons on this decision see section v. in Chapter 16.

†From the Halleran Report describing some of the prosecution's witnesses in the Mooney case. For this reference and other excerpts regarding same, see Hopkins, *op. cit.*, pp. 130-131, 203-204.

witness stand. And one is acutely reminded of Harry Gold when Darrow describes Harry Orchard as also having "a rather superior mind and a remarkably cool head" at all times during his testimony.*

Even when one goes back to the records of the Salem witch trials, one observes that the atmosphere of the witch hunt readily brought forth its quota of masochists, exhibitionists, sadists and what-have-you. For an example of such a scavenger in modern witch hunts, let us glance at the recent case of Thad Mason, a "self-styled Communist spy," who appeared before Senator Jenner's subcommittee in April, 1953, and swore:

"... That during World War II, he stole more than 100 blueprints from a General Motors plant in Cleveland for a Red spy ring....

"Mr. Mason testified that the spy ring consisted of himself, a counterman in the cafeteria of the Cleveland plant, and a dishwasher 'in the basement.'

"He said that, while working as a file clerk, he would give blueprints to the counterman who, in turn, would pass them along to the dishwasher.

"The latter, he said, would film these in the basement. After being filmed, he said, the blueprints would be returned to the files."†

For Senator Jenner, stalwart champion of McCarthy, this "confession" was a veritable windfall. It not only promised another sensational spy exposé, but its timing was perfect for the execution of the Rosenbergs, less than two months away at this date. However, a most serious difficulty arose, for the *New York Times* further reported that:

"... A spokesman for the General Motors plant in Cleveland said there was *no basement* to the cafeteria." (Emphasis added.)

Immediately thereafter, according to the United Press, "three closed sessions of the subcommittee" were called at each of which Mason "denied stealing plans from the General Motors plant"! Thus, for Senator Jenner, gone was the "Red spy ring" together with the "more than 100 blueprints." And gone, too, was the neat, little assembly line of file clerk, counterman and dishwasher, together with

the imaginary microfilming of the imaginary imaginary basement.*

Naturally, there was curiosity as to Maser's concerning these the United Press reports:

"There was speculation that he might from GM at the public session to make phasis added.)

In our anatomy of frame-up we have seen various methods used to secure perjured Government witnesses. It is nothing unusual to rely on the method of reverse blackmail, that and "state's evidence" from persons who have one sort or another. Indeed, our police chiefs they are forced to rely on stool-pigeon assistance crime detection. But since these stool pigeons of the threat of prosecution, their normal in thing possible to oblige the police. In fact, imbued with the psychology of the "cop" known as "police-sucks." The expression of type of fawning, obsequious creature whom beck and call for whatever purpose requires.

In his chapter on the psychology of the infiltrator describes the political type, with first-hand son who invariably becomes a "creature" of whistle, he fetches a soiled bone of information.

And while we cannot say with certainty a "creature" before his arrest in 1950, we heralded man hunt for him in that year is

*For those readers who may recall the onslaught years, the pattern of microfilming-blueprints-in must seem familiar. The most notable example charges of "photographing... all sorts of inside ment of the Silvermaster house."

In the Brothman and Rosenberg cases, the with Gold's basement blueprints and with the Rosenbergs and their "hollowed-out" console.

As the case of Thad Mason so well illustrates those who had a part in contributing to the inspired by each other to follow suit. In this re of the well known attitude taken by Hollywood whenever there is objection to the use of a trick "It worked before, didn't it? So let's do it again."

†Whittaker Chambers, *Witness*, Random House

*Clarence Darrow, *The Story of My Life*, Scribner's, New York, 1932.

†*New York Times*, May 25, 1953.

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k, 1952, pp. 454-56.

sense, not only on the grounds that it is completely contradicted by official records, but also for the simple reason that there was not the slightest need to hunt Gold! The FBI already had him in its pocket, so to speak, at least since May of 1947, when they had interrogated him and searched his house.

With the arrest of Dr. Fuchs in February, 1950, all they had to do was to look in their highly publicized "Central Subversive Files" under the possible heading: "Suspected of Soviet Espionage — New York Area — Harry Gold and Abraham Brothman."

And there, in less than five minutes, they could have seen the cross-reference to Gold's personal dossier containing the facts of Elizabeth Bentley's charges against Brothman as well as "the highly useful information" Mr. Hoover has written about so tantalizingly.

What exactly was this highly useful information, what were the true motivations behind Gold's confession, and what were the inducements, the pressures, the promises or rewards — are questions impossible to answer with any certainty. It may occur to some experts on the history of espionage and counterespionage that Gold was actually a paid agent provocateur or a volunteer counterspy all along. It may occur to others who have any knowledge of police methods that the FBI's "highly useful information" included some crime involving some abnormal deviation. And whereas it may have been a run-of-the-mill crime in the eyes of the law, the possibility of public exposure and disgrace, or even the threat of such exposure, to someone of Gold's orthodox religious background would be so unbearable that he would find anything preferable.

On the other hand, with what we know about Gold psychologically from his own admissions, it may occur to psychiatrists and criminologists that it was not at all necessary for him to have committed an actual crime; he could very well have had a compulsion for punishment *other* than for the crime he confessed.

In this connection one cannot help recalling the many instances wherein police are often besieged by self-proclaimed "murderers." The sensational Black Dahlia case in Los Angeles of the late 1940's is a notable example. Ever since the girl's nude and dismembered body was found (a black dress decorated with a dahlia was found near-by), scores of pathologic persons have come to the police, insisting that they committed the atrocity. Some even wrote detailed confessions and demanded that they be punished as the real murderer. Needless to say, all of these confessions were proved fictitious, and today the crime remains still unsolved.

In the field of psychiatry the pathology is well known. The would-be confessant is so tormented by some secret sin or misdeed (real or

fancied) which he dares not admit — sometimes not even to himself — that his compulsion to confess and his need to be punished are overpowering.*

In view of Gold's constant striving to emulate Dr. Fuchs, it is also interesting to weigh the possibility that he was inspired to imitate Dr. Fuchs' compulsion for atonement and thus expiate for some "other crimes" of his own. Judging from Gold's "killing" of his brother, there could well have been an even more unmentionable crime committed in his vivid phantasies — one that had caused such an accumulation of guilt and inner tension over the years that it was impossible for him to wipe it out unless he received punishment for an invented, substitute crime.

We know that Gold, in proclaiming himself as the "American partner" of Dr. Fuchs, played his new role with as much conviction as he had played the broken-hearted husband of the two-timing "Sarah," and the noble, sacrificing father watching his twins from afar. According to *Life* of June 12, 1950, Gold always had an inordinate ambition to become "a great scientist, so great that everyone in the world would know him. . . ." Some idea of the extent to which he attempted to pattern himself after Dr. Fuchs can be seen in this comparison between parts of the former's confession and Gold's statements at the Brothman trial:

Dr. Fuchs: "... It became clear that in leaving Harwell in these circumstances I would deal a great blow to Harwell and all the work I had loved. . . ."

Harry Gold: "I wanted to complete as much of the work at the Heart Station of the Philadelphia General Hospital as I could and I fought for time."†

*Dr. Theodore Reik has written a definitive article on this phenomenon, called "Geständniszwang und Strafbedürfnis" (The Urge to Confess and the Need for Punishment). Note: Another case in point is that of William Hardy, who confessed to being the kidnapper and slayer of an eight-year-old girl in California. After his claims had been proved fictitious and he was charged with "lascivious association with . . . younger companions," he pleaded guilty to lewd vagrancy and was sentenced to County jail. (See *Los Angeles Times*, Oct. 20, 1953.)

†Whereas Dr. Fuchs, as deputy Chief Scientific Officer at Harwell, was undoubtedly concerned with the retarding effect of his arrest on the scientific progress there, any such parallel claimed by Gold is ludicrous when we see him trying to pass himself off as someone who was engaged in an important research project in the field of cardiology. Actually, his work at the Philadelphia General Hospital consisted of little more than routine laboratory testing connected with "heart ailments," something which has been going on for years in every large city hospital.

Dr. Fuchs: "I used my Marxian philosophy to conceal my thoughts in two separate compartments. One side was the man I wanted to be. . . I knew the other compartment would step in if I reached the danger point."

Harry Gold: "When I went on a mission for the Soviet Union, I used a one-track mind. . . I forgot work, family, everything. When I returned, I just turned the switch and I used a one-track mind in regard to my work."

Thus, step by step, Gold achieves closer identification with Dr. Fuchs. First, he becomes his "partner" in the transmission of the most important scientific secret in world history. Next, there is the self-dramatizing statement that he is loath to leave his "work at the Heart Station," in his desire to serve science even up to the last minute of freedom. And finally, he, too, becomes a "controlled schizophrenic," with his mind divided by switches instead of compartments.

In essence, this much is certain — that when Harry Gold was ready to step forward to the center of the world stage and be accepted on almost equal terms with Dr. Fuchs, no gratification could have meant more to him. His phantasy spy life had become much more real and gratifying than his own prosaic and barren life could ever be.*

*In this regard, there have been two recent sensational hoaxes involving impostor-spies which should be noted:

1. That of the Canadian, George DuPre, who posed and was believed by millions to be a "World War II intelligence agent whose cloak-and-dagger experiences" were recounted as facts in a book entitled *The Man Who Wouldn't Talk*, written by Quentin Reynolds for Random House in November, 1953, and which was condensed in *Reader's Digest* of the same date. (See *New York Times* of Nov. 15, 1953: "'Hero' of War Book Admits Exploits as Cloak-Dagger Spy Were a Hoax.")

2. That of Congressman Douglas Stringfellow of Utah, who was exposed as having invented a hero-spy career, with himself represented as the sole survivor of an O.S.S. team which had been parachuted behind German lines to capture the Nazi nuclear scientist Otto Hahn. (See *New York Times*, Oct. 18, 19, 24, 1954.)

Note: In both hoaxes it should be emphasized that not only was the public gullible and completely taken in but so were countless experts and officials over a period of nine years. And in both cases, as in most similar cases, the motives include the need for phantasy gratification and the acting out of the wish-fulfillment as well as the inability to control the lying.

George DuPre: "The story grew beyond my ability to control it."

Congressman Stringfellow: "I fell into a trap which was in part laid by my own glib tongue. As the stories grew, I did not correct these erroneous accounts, but rather thrived on the new found popularity."

It is highly significant that in both hoaxes there was the most detailed

vii

Perhaps no aspect of the anatomy of Gold's mind, and of necessity more complex, than the separate jigsaw puzzle contained within Gold's mind has its own bits and pieces which make it a simple matter to reconstruct, for individual's changing mental and emotional state over a long period of time necessary to the trap, but there is the very intricate machinery of the trap, constitutes the trap.

It is also necessary to point out that to the available facts, the picture must be such a time as the concealed facts become is hampered by separate and conflicting lines of inquiry, and the result is a different line of inquiry, and the result is a different line of inquiry, and the result is a different line of inquiry. For the hypothesis that Gold was partly insured by the threat of exposing some misconduct in his past, his expectation of punishment, realistic, because such a situation would be a "deal." This is a common practice in criminal law: quid pro quo: If the defendant will agree to this charge, then the prosecution will agree to such a charge.

On the other hand, if we pursue the hypothesis that Gold — operating under a compulsion to expose phantased crime — actually sought and then the reality of his sentence, in terms of punishment, would scarcely concern him or us.

However, since the field of psychological boundaries and the boundaries between one hypothesis and another

description of the agonizing torture they had endured at their Nazi captors (even though these two men were different) — the clearest indication of their complicity.

A less sensational case of an impostor-spy, but is the "Blonde Spy Story" of Ludmilla Mikaikova. In an effort to stave off deportation as a foreigner to have been a "Soviet espionage agent" for eight years, she had been "paid as much as \$1,000 a month for her services." (See *Los Angeles Times*, April 11, 1954: "Blonde Spy Story.")

impossible to determine, it is entirely feasible that Gold's decision to play the role of Dr. Fuchs' partner had more than one motivation.

In other words, he may have wanted to be punished, but not too severely. At the same time, with his boundless confidence that he could match wits with the FBI, he could have involved himself little by little by his own glib tongue. Then again, considering his suddenly released and over-inflated ego, compensating for a lifetime of inferiority, he may have been oblivious to any thought of punishment at all at the time of his arrest, which he describes as "voluntary custody." But, whatever the case may be, let us examine some of the possibilities as far as the facts or the known determining factors allow.

In the first place, we know that the delicate matter of Gold's sentencing was postponed for an *unprecedented* period of time — almost seven months after his arrest on May 23, 1950.* Since Gold pleaded guilty on July 20, 1950, this delay had only one purpose, namely, the "making of a case" against Brothman, whose trial took place in November. In other words, only *after* Gold had "delivered the goods" at that trial did he come up for sentencing on December 7, 1950 — significantly only eight days after his testimony had sent Brothman to jail on November 29.

Needless to say, testimony under such circumstances is universally regarded as suspect and unreliable, and the reasons are self-evident. Since the witness, giving accomplice testimony, has not yet been sentenced himself, he has every motive to "pile it on" in the hope that his own sentence will be lighter. If he knows (as Gold knew) that without his testimony the prosecution's case cannot be proved, he has all the more reason to expect gratitude. And because the incentive for lying is recognized to be so great, in many such cases the courts seek to minimize the danger, either by giving the accomplice a guarantee of freedom, or by imposing sentence prior to his testimony.

There can be little doubt that by the time Gold took the stand to relate his espionage exploits with Brothman he had already passed through many stages of self-entrapment in the six months between his arrest and Brothman's trial. In preparing the case

*Although the sentencing judge (McGranery) granted repeated requests of the Government for delay of sentence, he cautiously dissociated himself from possible future trouble by this statement:

"I know of no case on record where sentence has been deferred for so long a time."

against Brothman, the FBI and the prosecution (Saypol, Lane, Cohn & Co.) had to go over the story innumerable times with Gold, and one can be sure that all of it was taken down in sworn and signed statements, each one of which involved him a little deeper. Thus, by the time the Brothman trial was over, whatever illusions Gold may have entertained, or whatever promises had been made implicitly or explicitly, there was no turning back.

Concerning Gold's possible illusions in the early stages of his "voluntary custody," it is not unlikely that he believed or was persuaded to believe that he would receive very light punishment. First, there is the fact that he had confessed voluntarily. Second, it was only on his testimony that Brothman could be convicted. And third, it was only on his accusations against Greenglass that the Government could "make a case" against the Rosenbergs. Hence, he had every justification to believe he would be treated as lightly as David Greenglass, who had not only been promised a "deal" of a light sentence of one or two years, but the possibility of a suspended one.*

In addition, Gold was aware that other self-confessed "spies" had been treated most generously. There was Whittaker Chambers, the self-confessed espionage courier between Alger Hiss and the Russians. Not only had he not been prosecuted, but in scores of editorials throughout the country he was being eulogized as a great American patriot. There was Elizabeth Bentley, by her own description the "Red Spy Queen" and top courier for the Kremlin. But, instead of being punished, she was now a well-paid lecturer for patriotic organizations, receiving considerable royalties for her published memoirs and newspaper articles. And there was, of course, Ruth Greenglass, his own so-called co-conspirator, who, despite her admitted crimes, was not even to be indicted!

To be sure, Dr. Fuchs had been sentenced to fourteen years by a British court, but, unlike Gold, he had done nothing in the way of exposing other "spies." Moreover, it was reasonable to believe that if Atom Spy No. 1 got off so lightly, an ordinary courier would receive only a nominal sentence, and possibly a suspended one.

From official records, we know how benevolently Gold was treated during the six-month period before his sentencing. In later pages we will see how he was "lodged," not in a prison cell, but in the notorious eleventh floor dormitory of the Tombs, otherwise known as "Singers' Heaven" or the "Singing Quarters." Here he could loll

*It will later be shown through the officially acknowledged confidential memos of Greenglass' attorney, O. John Rogge, that such a "deal" had in fact been made.

about almost without supervision or rules, enjoying good food and special privileges. Here, as we will see charged, he became the representative of the prosecution and the FBI in the matter of coaching his bunk-mate, Greenglass, on the mysteries of the atom bomb "secrets" about which the latter was to testify. Frequent conferences with him were held at the Federal Building in the offices of the FBI and the United States Attorney for the preparation of his testimony at the trials of Brothman and the Rosenbergs. In addition, there were a number of trips made to Philadelphia to confer with his attorney, Mr. John D. M. Hamilton, the former Chairman of the Republican National Committee (Concerning this curious legal representation awarded to Gold, we will have more to say later.)

Hence, it is not difficult to see how this one-time "nonentity" — as he was described in *Life* — working for years "at a succession of dreary jobs," must have felt exhilarated with his sudden sense of importance.

On the witness stand for four and a half days during the Brothman trial as the Government's star witness, Gold enjoyed the public limelight with huge relish as well as the opportunity to present himself as a "scientist." Indeed, as he indulged himself in lengthy technical descriptions of the Aerosol "bomb" and the chemical processes involved in the manufacture of vegetable shortenings, his lay audience was enormously impressed with his scientific knowledge — except, of course, his former employer, Brothman.*

viii

In our effort to comprehend the workings of a mind such as Gold's without benefit of an intensive psychiatric examination, and especially his passivity vis-à-vis his punishment, we come upon a most revealing statement made by his attorney which provides almost a

*Addressing the 109th annual conference of the American Psychiatric Association, Dr. H. A. Davidson, lecturer in legal medicine at the Medical College of Virginia, described the problem of the "insane witness" who is not recognized as such by judges and juries:

"Today, any pathological liar . . . who easily confuses facts with fantasy, or even some half-crazed person . . . or an exhibitionist who will say anything to get into the limelight, is allowed to testify in a court trial. No one in the courtroom may suspect that he is mentally unbalanced, and . . . his insane evidence will go into the record and perhaps be accepted at full value by the jury." (Reported by Dr. Walter Alvarez, Emeritus Consultant, Mayo Clinic. See *Los Angeles Times*, Oct. 15, 1953; also *New York Times*, May 9, 1953.)

perfect key. This statement was made time of his sentencing:

"Harry Gold had a fatalistic and peculiar fatalistic attitude."

With this key, one can open the delusional attitude as he resigned himself for the tremendous gratification he found in the world, as well as the gratification of his every word quoted in print.

What is the worst aspect of imprisonment? Primarily, he is deprived of contact with children, parents and friends. But for such relationships, in this all-important world, not the slightest deprivation. There he had died three years before. With no draw from the real world emotionally, all the same to him wherever he happened to be or outside.

In fact, in a deeper sense, prison for him was a sanctuary, a retreat. Since his chief phantasies, he simply took them along with him. He had never been money-minded, working in a job that afforded him as much self-esteem as the obscurity of the Philadelphia General Hospital. For his work was not merely for the prison hospital staff, but also he was loved with an aura of world importance.

It is a known fact among penologists that the withdrawn ones, find their satisfaction in the world outside. With no contact with no members of the opposite sex to found much more serenity within his mind than in the hazardous tension-ridden world.

In the last analysis, what makes one understand Gold's "fatalistic attitude" toward his situation is the distinction between the unofficial but stark

*In Pilat's book, *op. cit.*, there is a similar conclusion approach.

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rewarding "confessions" and its apparent severe treatment of Gold.* Let us assume that Gold was everything he claimed to be. If so, why did the Department of Justice treat him so cruelly? Without him there would have been no Brothman case, no accusation against Greenglass and therefore no Rosenberg case. How was the Government living up to its policy of reward toward repentant "spies" who helped expose the "Red network"? In other words, by failing to reward Gold with a light sentence, was it not *discouraging* cooperation with the FBI?

In view of this curious about-face in the case of Gold, one can conclude only that there was a determination to put him away safely for the duration, as it were. And shortly, when we come to Judge McGranery's boosting of the Government recommendation to the maximum term, we will see that it was a matter of indifference to Gold whatever sentence he received as long as he was treated with the respect he craved.

ix

From the moment Gold consented or volunteered to become the springboard for the FBI's case against the Rosenbergs he was in a bargaining position where he could insist upon being treated with a proper show of importance. And evidently there was only one way to satisfy him: by having the Court appoint a distinguished member of the bar in Philadelphia to represent him. In all truth, it didn't matter a scintilla whether he was represented by a hack attorney or none at all, for he had waived trial by pleading guilty. But to Gold the issue was vital, since it was a concrete symbol of the Government's gratitude. And so, according to the Brothman record, we find that he actually demanded these "three conditions" of Judge McGranery:

The Witness [Gold]: They were conditions which I stipulated for myself. I was the only one that could meet them. Here were the three conditions:

First, I said that the lawyer appointed must permit me to talk to the FBI. Secondly, he must have no Communist or leftwing tinges whatever, and in conducting whatever mitigating circum-

*"If you tell what you know, and thereby help to unroll the net further, you may receive as much leniency as can be arranged through the courts, otherwise you will get the legal limit." (*Ibid.*, p. 266. See also elaboration of this by Rogge in "Proceedings Re Sentence of David Greenglass," Record, pp. 1624-1636.)

stances there are for my defense, he must not put on a circus or show. The third point was that I must be permitted to plead guilty.

While we allow these "three conditions" to spin about in the mind a bit, let us see what choice of attorney Gold finally approved. As previously mentioned, it was none other than John D. M. Hamilton, the former Chairman of the Republican National Committee. Since Judge McGranery happens to be a prominent Democrat, and since Gold himself was a registered Democratic voter, the selection is somewhat perplexing — unless it was to prove to Gold that he had bipartisan endorsement.

Regarding the three conditions, one can only approach them gingerly. Taking his first and last demands together — that he *must be permitted* to talk to the FBI, and that he *must be permitted* to plead guilty — they would seem to point to the following interpretation: That Gold was not too confident he could carry through the hoax should the *wrong* attorney be appointed. For example, a diligent and conscientious attorney might insist that Gold exercise his full legal rights, repudiate his confession, decline to confer further with the FBI, and demand a real show of evidence at a public trial.

Such advice would be nothing less than catastrophic. For, in the face of a repudiated confession, how could the Government *prove* that Gold was indeed Fuchs' "partner"? In view of the difficulties the FBI already had had with Dr. Fuchs, it was highly questionable what he might do at a public trial of Gold, whether he testified in person or by deposition. What if he again insisted that his courier had been the Boston "Russian," or the impossible "James Davidson"?

Thus the meaning of the second condition also becomes clarified. Without the stipulation forbidding a left-wing lawyer, Judge McGranery might have gone ahead and appointed a "contaminated" lawyer. And such a lawyer, even if Gold tried to reject his advice, might very well expose the hoax in open court, or enough of it to set the press agog and thus bring about the very "circus" Gold and the FBI were so determined to avoid. With the appointment of the former Chairman of the Republican National Committee, all such dangers were insured against and, as we shall soon see, Mr. Hamilton proved to be a very Gibraltar of reliability.

It was in the official records relating to Harry Gold at the Federal Courthouse in Philadelphia that we found the gaping "hole" in Mr. Hoover's version of Gold's arrest concerning the Santa Fe "museum" map. But this is not all, for the record further discloses that the veteran politician James P. McGranery, the sentencing judge (later

to be appointed United States Attorney General), smelled something rotten in the very much delayed sentencing of Gold, and showed a consistent determination to keep his robes clean.

When we turn to the date of Gold's plea of guilty on July 20, 1950, we find the cautious McGranery warning the Government prosecutor, Mr. Gleeson, that he will have to specify exactly what crimes Gold had committed. There had been some "publicity," the Court pointed out, implying that "no other course was open [to Gold] than to plead guilty here." Therefore, the Court could hardly be expected to render a just sentence unless the prosecutor presented sufficient supporting evidence. Here is Mr. Gleeson's response:

"In view of the plea of guilty, the Government will not wish to present *any evidence* with respect to the commission of the crime, because I think your Honor can very well understand that there is certain information we do not want made public since the man has entered his plea.

"The same information, of course, if he pleaded not guilty, we would probably have to make public at a trial, but in view of the fact that he had entered a guilty plea, it may very well be that the Government does not wish to make public certain things that it has learned, for security reasons." (Emphasis added.)

The evasiveness of the answer is clear from the admission that the "security reasons" would have to be *made public* if Gold had insisted on a trial. Aware of this, Judge McGranery remains politely insistent:

The Court: Certainly, that may be, but I will require enough evidence to satisfy me beyond any doubt as to the crimes charged and for imposition of sentence.

Mr. Gleeson: We will try. . . . It is difficult to determine . . .

The Court: We tried eight saboteurs right in the very heat of the war and they were tried by evidence.

[Note: This refers to the Nazi spy saboteurs who were landed by submarine during World War II.]

Mr. Gleeson: It is only evidence, after all, to satisfy your Honor in determining the question of sentence. We will do the best we can.

If anything reveals the extent of the farce, it is what followed immediately after Mr. Gleeson's lame attempt to bargain. For here is the defense counsel, springing to the prosecutor's aid!

Mr. Hamilton: I would be p
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Gleeson] might make, *without*
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Mr. Miller: I think the st
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Gold signed a confession.

The Court: The p
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Attorney General and Mr. H

Mr. Miller: *That is correct.*

And so we discover not only t
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to twenty-five years. While this might sound severe enough, actually it meant Gold would be eligible for parole and would be a free man in only eight years and four months. Here is the *New York Times'* comment of March 16, 1951, on this point when Gold testified at the Rosenberg trial:

"From his outspoken testimony it appeared obvious that he was fully cooperative. He may be eligible for parole in December, 1960, a consideration that might influence his cooperation with the Prosecution."

In any event, there appeared to be no objection by Gold or his attorney, Mr. Hamilton. (According to the *New York Times*, "Gold sat impassive throughout most of the four-hour pre-sentencing arraignment.") But not so the overcautious McGranery as he weighed the matter over for the next two days. Evidently he was not as impressed with Attorney General McGrath's recommendation as he might have been under normal circumstances. For he knew that he was soon to replace McGrath and be appointed Attorney General himself by President Truman. Thus, on December 9, when he imposed sentence, he rejected the recommendation and added an extra five years, bringing it up to the maximum of thirty. In doing so, he read a "1,000-word statement" for the benefit of the admittedly surprised press, containing the usual platitudes about "the need to deter others in the future." However, the following is perfectly clear: He was not only avoiding any possible charge of having rubber-stamped a fraud, but he was already addressing the nation at large as its future chief of the Department of Justice.

Here, indeed, was an ironical turn of fate. For James P. McGranery, devout Roman Catholic, knighted by the Holy See, who was so justly suspicious about the Government's lack of evidence and the unprecedented postponement of Gold's sentencing, only two years later found himself exposed as the Attorney General who deliberately suppressed Pope Pius' urgent intervention appeal in behalf of Gold's victims — the Rosenbergs.

Perhaps the biggest day of Gold's life was the one at which he appeared for sentencing. For two and a half hours he had listened raptly to Mr. Hamilton extolling the virtues of his saintly character. Then, as sentence was about to be passed, Gold rose to meet the occasion with a prepared speech. It was observed by the *New York Times* that he spoke "slowly and almost as though he had rehearsed the statement many times." In any event, it sounded like the banquet address of a retiring faithful employee thanking all the Company's executives one by one.

"I have received the most scrupulously fair trial* and treatment that could be described and this has been not only in this court, but has been the case with the FBI, with the other agencies of the Justice Department and at the various prisons where I have been lodged both here and in New York.

"... Nothing has served to bring me to a realization of the terrible mistake that I have made, as this one fact, the appointment by this Court of Mr. Hamilton and Mr. Ballard [assistant to Mr. Hamilton] as my counsel.

"These men have worked incredibly hard and faithfully in my behalf, in the face of severe personal criticism and even invective, and they have done this not for the reason they condoned my crime, but because they believe that as a basic part of our law, I was entitled to the best legal representation available. . . .

"There is a puny inadequacy about any words telling how deep and horrible is my remorse."

At the very conclusion of Mr. Hoover's "case history" on Harry Gold in the *Reader's Digest*, we are told that the Soviets "had honored him with an Order of the Red Star," and that:

"... One of the privileges of the award was free trolley rides in the city of Moscow!"

And as sentence was imposed, Mr. Hoover relates, and the prisoner, overcome with "deep and horrible" remorse, was led from the courtroom, we are given the moral of the story:

"Harry Gold had sacrificed his life and hazarded the security of his nation for 'free trolley rides in Moscow' — a privilege which Fate was never to allow him to enjoy."

Nowhere in Gold's testimony is there any mention of any "Order of the Red Star"; nowhere in the Brothman trial, nor in the Rosenberg trial, nor anywhere else in official records! It is to be found only alongside such theatrics as the museum map, the pet snake and trained crow of Tom Black.

As previously stated, it is not our task or responsibility to expose Gold's real relations with the Federal Bureau. Nor is it to deny that espionage exists. All great powers have always conducted espionage and always will as long as military general staffs are employed to

*It is a matter of record that Gold never received a trial in any court at any time in any sense of the word.

counteract each other's military plans. Our purpose is simply to show that the FBI and the prosecuting officials have failed to produce in Gold an acceptable and convincing picture of a most important Soviet spy, one capable of being believed beyond all reasonable doubt — and one on whose *credibility* two human beings should have been put to death and a third incarcerated in Alcatraz for virtually the balance of his life.

In later chapters we will take up the phenomenon of Harry Gold again. Thus far we have studied him from the viewpoint of his credibility before his entrance into the Rosenberg case. Later, we will examine his value as the prosecution's "necessary link." And since this link is claimed to be directly connected with that of the Greenglasses, let us now turn to them.

4 | Then Came the Gr

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Greenglasses to pe*

EARLY in the cross-examination of Da by the defense counsel, Emanuel Blocl toward his sister, Ethel Rosenberg:

Q. Do you bear affection for you

A. I do.

Q. And you realize the possible that Ethel is convicted by this jury,

A. I do.

Q. And you bear affection for h

A. I do.

Q. This moment?

A. At this moment.

Q. And yesterday?

A. And yesterday.

Q. And the day before yesterday

A. As far back as I ever met hei

Perhaps nowhere in the trial of the R as horrendous as this moment. For alme

*From a letter of June 4, 1953, by Julius describing Bennett's visit of June 2, and tl which was delivered to him on that date.

†Record, pp. 558-559.

glass had been testifying against his sister with the full realization that his every word might be another nail in her coffin. And yet here was this stubborn claim that he still bore affection for her not only in the past but at this very moment. It was as dishonest a statement as any perjurer ever made on a witness stand and obviously the result of precise instructions. For how could he possibly admit that he was stolidly indifferent to his sister's fate? Such an admission would not only have shocked the jury, but undoubtedly would have brought forth questions probing into the when, why and wherefore: When had he become indifferent? Had it anything to do with saving his own skin or preserving his wife's freedom? Why was he so willingly, even eagerly, accusing his sister? Had he been promised a "deal" as a reward? And wherefore had he involved her in the first place when there had existed not a single scrap of evidence proving her guilt or a single witness against her outside of his wife?

Even when one peruses the strange reply "As far back as I ever met her . . ." one detects the artificiality of Greenglass' professed affection. One doesn't *meet* a sister as one does a wife or a friend, no more than one meets a father or mother. The normal reply would have been "as far back as I was born" or "as long as we've been brother and sister."

And all through his testimony, if there were the slightest truth to his claim of affection, one would recognize some evidence of normal sympathy a brother would feel toward a sister. No matter how self-centered, no matter how desperate to save himself, any normal human being would have sought in some way to show his regret and helplessness to mitigate somehow his sister's part in the crime by adding, "Yes, but she didn't know what she was doing, didn't realize it was so wrong, didn't think of it really as a crime because we were allies of Russia. . . ."

Throughout the testimony of David Greenglass, as will be shown, he never loses an opportunity to present himself and his wife in exactly such a light. Thus it cannot be said that he was unaware of its value for himself. But not so for his sister. Instead, at every turn he "piles it on." And whereas one would expect a brother having the smallest measure of affection to testify reluctantly this modern Cain pours out his damning testimony against his own sister quite gratuitously, revealing at every moment his anxiety to insure his expected reward — his wife's immunity and a "pat on the back" of a three-year sentence for himself, as his own attorney's speech in the record discloses.

ii

On the lower East Side of New York, at 64 Sheriff Street, there is a dismal slum tenement. Alongside its entrance is still the small store once occupied by Barnet Greenglass, an immigrant from Russia. Here he eked out an existence repairing used sewing machines for the sweatshops of the ghetto.

Up a flight of creaking wooden stairs above a dark, dank hallway was his cold-water flat, vermin- and rat-ridden. There was no bathroom and what was called the toilet was off in the hall and had to be shared with other tenants. In 1922 his wife, Tessie, who had emigrated from Austria, gave birth to a fourth child, David.

The oldest son, Samuel, was fifteen at the time, then came his sister Ethel who was seven and another brother Bernard who was five. While the mother cooked, went shopping or helped tend the store downstairs, the task of caring for the five-year-old Bernard and her baby brother fell to the little girl.

After finishing public school David attended a trade school to learn to be an auto mechanic. When he was sixteen he tried to get into a handball tournament at one of the local community centers where many a teen-ager was a member of either the Yipsels (Young People's Socialist League) or the Y.C.L. (Young Communist League).

During this period, around 1938, it was fashionable for many youths on the East Side to belong to one group or another, not so much for political reasons as to be in the social swim for dances, parties and sports. Thus it was that when young Greenglass joined the Y.C.L. handball team because it was the first which happened to have an opening, he unknowingly entered the FBI's "Central Subversive File Checks."

Only a block or so away, on Rivington Street, lived a girl named Ruth Printz, some two years younger than David. Her parents, the father from Hungary and the mother from Poland, owned a small cotton-goods store behind which the family lived.* When Ruth was sixteen and had graduated from high school, she went to work as a typist at \$8 per week. As the saying goes, David and Ruth were "serious" about each other, even though he was only eighteen and earning very little at the time. Anxious to have her future husband

*In later years Ruth frequently complained to fellow typists that she had "hated her environment — hated her existence," and had always been ashamed of having to live "back of the store." (From an interview by this writer with one of her fellow-employees.)

amount to something more than an ordinary mechanic, Ruth encouraged him to enroll at Brooklyn Polytechnic High School.

His sister, Ethel, had recently married a young graduate engineer from City College named Julius Rosenberg, and there was no reason why David shouldn't try to be one, too. But whether it was the streak of hard luck which David always felt himself "jinxed" with or sheer lack of aptitude or just too many late dates with Ruth, in his very first semester he failed all eight out of the eight technical courses.* After this painful debacle David resolved he was not cut out for serious study and succeeded in getting himself a better-paying job. In the meantime, Ruth had increased her earnings to \$30 a week and the young couple decided their combined income was sufficient for marriage.

On their wedding day, Nov. 29, 1942, David was twenty and his bride eighteen. After living with in-laws for a few weeks they found a cold-water tenement flat at a rental of \$18 per month. It was no better and no worse than the slum dwellings of their parents.

Yet hard luck was still at David's heels, for only four months later he was drafted into the Army as a private, classified as an automotive machinist and assigned to a motor and tank pool in Pomona, California, and eventually reassigned to the student machine shop of an installation at Los Alamos, New Mexico.

In November, 1944, Ruth made a five-day visit to David in Albuquerque to celebrate their second wedding anniversary and to explore possibilities for an apartment and a job. Two months later Ruth set up housekeeping in Albuquerque in a one-room kitchenette apartment.

In March, 1946, when David had received his discharge and the couple had returned to New York, Ruth found a flat in another cold-water tenement just across the street from her father's store.

Anticipating David's return to civilian life, his mother had arranged a partnership for him in a small business venture recently formed by Julius and her other son, Bernard. It was called the United Purchasers and Distributors and involved the buying and selling of war-surplus nuts, bolts, wrenches and screw drivers. The total assets were roughly \$5,000, and David's investment was \$1,000.

In that same year, 1946, a son was born whom they named Stephen. Now there was an additional expense, but the partnership scarcely

paid David a living. The business was re (Greenglass and Rosenberg) Engineering C work, with David in charge of production just as badly. From time to time, even tho a salary arrangement of share-and-share-al sary to ask Julius for small five- or ten-dolla These out-of-pocket loans eventually tot: it was ever repaid until David quit the bus made in which Julius was credited with tl

In 1947 the partnership was again or of a new and "silent" partner, one M to match the others' assets. The new con Machine Products and proportionate shar the various partners. But fortune still elude kept foundering Julius and David bega with each other. It began as mild bick heated quarreling to such a degree that b approached an open family feud.

Ruth, who had always had a tendency to been overprotective of him ever since he complain that while her husband did m work Julius, the so-called idea man and s orders instead of obtaining any." The la David's machine work was frequently fau ous rejects, resulting in loss of customers.

As business continued to decline the fi dent that seemed to injure David's pri Julius appointed another machinist work. As one of the bosses, David resented "to work under my own employee."

With business slackening to a point could draw any salary at all David wou at his flat, which was only a few short quently Ruth would keep him at home went shopping. On such occasions she w was a fool to hurry back and found reas for her.

Not a little of this was sheer spite, fo tensely jealous of David's "wonderful" si virtues she resented as fiercely as others she envied Ethel's modern apartment sented that her own child had to play

*Record, p. 611. (Note: A great deal of the Greenglasses' personal background is to be found in their testimony; however, it is too interspersed throughout their direct and cross-examinations to list by specific pagination.)

ized as the G. & R. Corporation to do machine at the new effort fared the partners were on David found it necessary to make ends meet. \$300, but no part of and a settlement was amount.

ized with the addition who invested \$15,000 was called the Pitt of stock were issued to them and as the business find increasing fault, but soon there was 49 their relations had

minate David and had an adolescent, would of the hard and dirty chief, just "handed out in turn, objected that and this caused numer-

g increased. One incident happened when his brother-in-law's humiliation of having

none of the partners longer lunch hours from the shop. Fred the child while she scornfully tell him he send him on errands

had always been in- ethel whose talents and ed them. Particularly, steam heat and re- lthy back alley while

Ethel's children had a modern playground.* Whereas she had to lug parcels up three flights of stairs Ethel could blithely step into an elevator and just press a button. On the East Side, to describe someone's social standing in the most awesome terms it was enough to say the lucky one lived in a house which had an elevator.

In her heart too Ruth had always resented the odious comparisons made or implied by members of the family between Julius and David. Ethel had married a college graduate, "a big engineer," whereas all David amounted to was just a machinist. It enraged Ruth whenever the Rosenbergs were reported to have talked disparagingly of David or accused him of loafing. So bitter had the feud become that at the time of David's arrest Ruth had not visited the Rosenbergs for almost eighteen months. It reached its height one day when David had answered Julius' objections to his "goofing off on the job" with an outright threat to "knock his block off."

In August, 1949, David finally quit trying to be a businessman and took a job paying a steady wage with the Arma Corporation in Brooklyn. Bernard, for some time burdened with a wife dying of Hodgkin's disease and a two-year-old daughter, also left and took a job with a silk house. Julius, however, decided to carry on the remnants of the business and undertook to pay off the various partners for their stock. But enmity still remained, for Julius had to make a down payment to Mr. Schein of \$1,000 on a settlement of \$5,500, and therefore had nothing left to pay Bernard or David.

Knowing that Julius had cashed in his last Defense Savings Bond and was living on borrowed money from relatives, Bernard agreed to wait. But David and Ruth demanded immediate payment. When in May, 1950, only a few weeks before David's arrest, Julius asked for the transfer of stock Ruth refused to permit it unless he first signed a number of promissory notes. Since these would have obligated him to pay off the debt in monthly installments Julius refused, replying he could not possibly meet such a series of notes. This incident served to further intensify the feud — so much so that even after David's accusations had resulted in Julius' arrest and even as Ethel was desperately trying to pay grocery bills for herself and her children before her own arrest, Ruth instructed her attorney to institute suit against them for the \$1,000 still unpaid.†

*These attitudes of Ruth Greenglass were related to this writer by neighbors and former friends on the East Side.

†In the light of the subsequent Greenglass testimony that they had received \$5,000 of "Russian money" from the Rosenbergs for "flight," it would seem that the \$5,000 was just too imaginary for Ruth to forget the real \$1,000.

iii

Earlier that same year the nervous strain of the Greenglasses had been heightened by two serious incidents. At the beginning of February, only a few days after the arrest of Dr. Fuchs, an FBI man had appeared at their flat to question David about a "specimen of uranium" he was suspected of having stolen from Los Alamos.

In addition David had engaged in considerable black market activities in Albuquerque, selling precision tools and other stolen Army materials. There is no way of knowing what took place between the Greenglasses and the FBI following this February inquiry, but it is known that the Greenglasses felt themselves to be "the object of persecution" by the FBI. It is also known that David had actually stolen such "a sample of uranium," and that, terrified by the FBI visit coming so close upon the arrest of the "Communist" spy, Dr. Fuchs, and by the emphasis placed upon his youthful Y.C.I.L. membership, "he had thrown this uranium into the East River."*

On top of all this suspicion of atomic espionage and youthful Communism, coupled with the threat of imprisonment on several counts for his Army thefts, an almost fatal accident occurred. For, on February 14, Ruth was almost burned to death when her nightgown caught fire at their only heating source, the gas stove. David managed to extinguish the flames but Ruth was burned so badly she had to be rushed to the hospital for emergency blood transfusions.

At this time she was six months pregnant and was forced to leave her three-year-old boy in the care of relatives for two months until she recovered sufficiently to return home in mid-April. Life had become a rat race for the Greenglasses and it is little wonder that much of their venom was poured out on the hapless Rosenbergs. Heavy with child in her ninth month, her burns still not completely healed, Ruth tried to keep up with the housework as well as with David's tensions.

On May 16 Ruth was taken to the maternity hospital to give birth to a daughter, Barbara. No sooner had she returned to resume housework and tend her newborn infant than she developed a serious infection from her February burns. High fever resulted and again she

*These facts concerning the theft and disposal of the uranium, suppressed by the prosecution during the trial, were later revealed by the confidential inter-office memos of O. John Rogge, the Greenglass attorney, in reporting his conference with Ruth Greenglass, as well as by an affidavit of Bernard Greenglass. (Note: See further references to the discovery of these memos in Section v this chapter.)

had to be rushed to the hospital. Unable to afford a nurse, David was forced to take a leave of absence from work in order to care for the children and once again their income was totally cut off just when it was needed most.

And so it was, at the height of all this accumulated stress and strain, after years of meager Army pay, years of worsening poverty and embittered family relations, after the harassment by the FBI and the nerve-racking ordeal of Ruth's festering burns, that final disaster struck on June 15, 1950. And although the next day's headlines reported him as "seized," the prosaic truth is that when David Greenglass wearily answered the knock on his door at 2 o'clock that afternoon he was found diapering and preparing a milk formula for his baby.

iv

Such, then, were the raw materials which the FBI presented to the prosecution on the day of Greenglass' arrest, confident that they were malleable enough to be successfully forged into the necessary "chain of evidence."

Their chief weapon, of course, was the universally accepted courier of Dr. Fuchs, the imperturbable Harry Gold. It was a foregone conclusion that any story he fabricated linking Greenglass with himself and the Soviet Consulate would be believed by any jury. Greenglass' Y.C.L. membership and theft of the uranium sample constituted both "motive" and an overt act. The next link lay in the fact that his brother-in-law, Julius Rosenberg, formerly an engineer with the Signal Corps, had been dismissed on charges of membership in the Communist Party. The "chain" was designed, therefore, to link Gold to Greenglass, Greenglass to Rosenberg, Rosenberg to the Communist Party, the party to the Soviet spy-masters, and the spy-masters back to Gold. Hence the first step was to break down Greenglass and get him to "cooperate" and agree to involve his brother-in-law, if necessary by passing the blame to him.

According to the Government's announcements regarding the so-called confession of Greenglass it was all very simple and happened overnight. Greenglass had been "seized," confronted with Gold's charges, and "after several hours" of obduracy, had decided to make amends by giving a voluntary and full confession to the FBI that very first night. According to the popular conception broadcast by the newspapers, it was on this first night that Greenglass had voluntarily confessed the dominant role of his sister and brother-in-law in the espionage conspiracy.

Actually, however, the facts disclose It took almost a full month for Greenglass sufficiently to make the arrest of Julius I various forms of pressure had to be exerted to the story and continue its elaboration month before he agreed to involve his arrest, it required more than six months to keep David in line and to build up his story by the device of holding up his sentence. It was said the process totaled a period of a month.

What happened that first crucial morning door on the afternoon of June 15? To agents of the FBI, Messrs. Harrington, I come on that particular day? Had a warrant come out on the basis of Gold's charges? No. possession of a proper search warrant? searched every nook and cranny of the flat to trap Greenglass with, such as Gold's "trick."

A curious situation: Although the FBI had all about Gold's atomic espionage with Greenglass they now send four detectives empowered more than their pocket badges. And more curious is the fact that he allows himself to be questioned for hours without once exercising his right to counsel. When does he finally decide he needs a lawyer? Only after he permits his brother-in-law to visit him at the FBI headquarters, and only after he has been there 2 o'clock in the morning. Only then does he permit his brother-in-law, Louis Abel, to go to the law office and engage him as counsel.

Now, if we assume that Greenglass was everything that night, these questions arise: Did Greenglass need to confess at all? If so, against his and not a single witness or a shadow of doubt that Greenglass had committed any espionage, when the FBI inquiry back in February of 1950.

*According to the record, the only "suspicious" possession was found in an old tin box containing mathematical notations of Julius written while during the time he was courting Ethel. One of the notations, "What is this? Is this some secret message?" "That is notes that my brother-in-law wrote." (Record, p. 573.)

irely different story. "ry" to be developed erg. During this time make Greenglass stick took almost another nd, following Ethel's dditional pressure to or the trial. Indeed, after the trial, it can en months.

er David opened the with, why did four Frutkin and Norton, of arrest been sworn these four agents in And after they had ey find any evidence a map"? No.*

supposedly learned s three weeks earlier, nothing more official e find Greenglass so ed a total of twelve phone an attorney. ey according to his o be taken down to d his confession at ephone his brother- D. John Rogge and

guilty and confessed the first place, why s only Gold's word upporting evidence o be sure, there had ig the stolen "speci

lence discovered in age containing some is a college student I men asked Green- vo," David replied, hile he was in col-

men of uranium," but this had no necessary connection with espionage or with Gold.*

In fact, nowhere in the record does the prosecutor or Gold ever mention this matter of the uranium. Hence, what becomes clear is that the very nucleus of Greenglass' fear — his theft of the uranium — is significantly absent in the Government's case.

In the second place, still assuming Greenglass and the Rosenbergs were guilty as charged, why was it necessary for David to drag in Ethel? One may concede that Greenglass was in a state of panic and that it took very little pressure on him to shift the blame to his disliked brother-in-law. But why his sister, someone he loved so dearly all his life? Even if we take it from the point of view that Ethel had been involved in the conspiracy, the stark fact remains that no one knew about it save the Greenglasses and the Rosenbergs. Why then should David unnecessarily expose her to arrest, imprisonment and possibly the electric chair?

If all this inconceivable "cooperation" really took place, then why weren't the Rosenbergs arrested that very same night? Why was a full month allowed to pass before Julius' arrest and why almost two months before Ethel's arrest? Surely, with the Rosenbergs learning from the next day's newspapers of David's confession, they would

*The truth is that when Greenglass took home the speck of uranium from the Los Alamos Project, his purpose was only to keep it as a "souvenir." On Aug. 22, 1950, two months after Greenglass' arrest, the FBI arrested another former G.I. in Denver, a young man named Sanford Simons, on charges of having stolen "a glass vial containing plutonium." "Little perturbed by his plight," Simons explained that the "sample had been on his desk" and that it had seemed to be "a minor matter then [in 1945]":

"It seems pretty silly now, but I've always collected mineral samples. I realized almost instantly that I didn't want it, but it was like having a bull by the tail. I couldn't let go."

On November 22, although the maximum penalty was five years in prison, Simons was sentenced to a term of only eighteen months. When we seek an explanation of this leniency, we find this statement made by the FBI on the day of his arrest: that there was "no known link with Communist or subversive organizations." In short, the fortunate Simons, unlike Greenglass, had never joined the Y.C.L. and evidently had no relatives whom the FBI could link up with Communist Party membership and, ipso facto, with the Russian spy-ring. (See *New York Times*, Aug. 23 and 24, 1950; also Joint Report, p. 193: "Non-espionage Cases.")

Note: If Greenglass had really been guilty and had made an honest confession that first night, as later claimed, then why is it that his confidential handwritten memo to his attorney concerning the details of that confession contains not a single word about his uranium theft?

realize their danger and be quick to destroy whatever evidence might still be present in their apartment.

Forewarned, and aware that the FBI would keep them under strict surveillance, the Rosenbergs could scarcely be expected to make any rash blunders such as attempting to flee the country with or without their two children, or stupidly involving their superiors by frantic telephone calls or midnight visits. For what reason, then, were they permitted their liberty for so long a time if Greenglass voluntarily made his full confession that first night, as the Government insists and as he later testified?

The reason is quite plain. David Greenglass never made any such confession. Whatever testimony he swore to at the trial was carefully worked out in the weeks that followed, in conferences between Gold and Greenglass, Greenglass and Roy Cohn, Ruth Greenglass and the FBI together with Saypol and his staff, and, of course, Mr. O. John Rogge and his staff.

Perhaps it is best to introduce Mr. Rogge at this point. Once known as a liberal while serving as Assistant U. S. Attorney General during World War II, he had turned into a violent anti-Communist with the development of the Cold War.*

There has never been any explanation why Greenglass happened to select Rogge as his counsel at 2 o'clock that morning of June 16. Later, we will see that another Government witness against the Rosenbergs, the terrified Max Elitcher, also happened to engage Mr. Rogge as counsel, and that this choice is explained away as a mere "coincidence."

In the light of Mr. Rogge's subsequent "deals" with Saypol and the FBI, there is every reason to believe that on or before June 15 his name was discreetly suggested to Greenglass as the "right kind" of lawyer to obtain; one who had excellent contacts with the Justice Department and one whom the Federal Bureau might best get along with.

Certainly, this would explain Greenglass' extraordinary compliance on the day of the FBI's search and arrest without a warrant. Everything that happened that day indicates there must have been several previous visits of the FBI to persuade him to "confess" more than his uranium theft. Throughout Greenglass' testimony, he himself reveals why he finally took the line of least resistance on June 15.

*There is a most revealing chapter on Mr. Rogge's willingness to serve the interests of the FBI in the book *In Battle for Peace* by W. E. B. Du Bois with the heading: "Oh! John Rogge." (Masses & Mainstream, New York, 1952.)

He wanted to see just "what the Government was going to do"; he wanted to find out just "what they wanted me to put in the statement."

Having seen and found out, having allowed himself to become entrapped into signing a first statement, his fright became so great that he could not wait to call Rogge in the morning, but hastened to telephone Louis Abel at the hour of 2 A.M. After this, he fell into a deep sleep of exhaustion on a cot in one of the offices of the FBI's suite. On the next morning, June 16, one of Rogge's partners, Herbert Fabricant, arrived to confer with him. Later in the afternoon Greenglass had a brief talk with Rogge himself. Then he was taken down to be arraigned.

And here we see, in the court record, that Rogge "protested his innocence" vehemently, even to the extent of asking for the light bail of only \$5,000. Saypol insisted on a bail bond of \$100,000. This insistence served a double purpose: First, it increased the importance of Greenglass as a most dangerous atom-spy. Second, it further terrified Greenglass and his wife into accepting the hopelessness of their predicament.

It is through Saypol's description of this arraignment that the lie is given to the Government's claim that Greenglass furnished a full confession that first night. Here is the record during Greenglass' sentencing proceedings:

[Saypol]: When David Greenglass was arrested . . . I remember well how at his arraignment . . . Mr. Rogge protested his innocence. Through Ruth Greenglass, his wife, came the subsequent recantation of those protestations, their cooperation and the disclosure of the facts by both of them.*

Let us now see how these "recantations" were induced. According to Saypol, it was "penitence, contriteness, [and] remorse" that spurred the Greenglasses toward confessing their guilt and the disclosure of the Rosenbergs' complicity. But the facts tell a quite different story — one of steadily applied and carefully timed coercion. On the morning of June 17, 1950, the *New York Times* reported that:

"The espionage complaint against Greenglass was signed in Albuquerque, New Mexico. Commissioner McDonald set Friday [June 23] for a removal hearing."

Thus the impression given to the public was twofold: First, that Greenglass had been arrested on the basis of a complaint *originating*

*Record, p. 1623.

in the district of the alleged crime, swiftly removed to New Mexico, there

However, the fact is that the New Mexico about Greenglass' alleged crime, nor until the Department of Justice in New Mexico plainly reported in the Albuquerque states that the U. S. Attorney in Albuquerque "long-distance" call from the Criminal Division, during which Greenglass were outlined and the request was made against him in Albuquerque.

It is further reported in the same court record that the Attorney in Albuquerque then commented that if "Greenglass indicates willingness to be removed to the New York District," New Mexico

"Otherwise . . . the defendant should be held in strict for prosecution."

It is not at all difficult to reconstruct having been pressured into signing a confession in the early hours of June 16, Greenglass protest his innocence at the arraignment. The problem was to get him to stick by the statements he signed. Whereupon the removal off to New Mexico was conceived. The New York requested Washington to request the Albuquerque complaint. Thus Greenglass On the one hand, if he would cooperate New York, then jurisdiction would be the other hand ("otherwise"), if he refused to move to face the hostility of a New Mexico

How powerful was this pressure is shown by herself. In a confidential file memo, the Mr. R. H. Goldman, an associate of Ruth Greenglass, view with her three days after her husband's

"OJR [O. John Rogge] and I visited her home, 285 Rivington St., New York, New York, 1950. She was in bed as she had just returned from New Mexico."

"She feels that New Mexico is a very bad place since the citizens did not like GI's, and that then the big slack, because of the attitude

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local citizens all felt bitter about the wives of the GI's taking
jobs there."^{*}

On June 23 the removal hearing of Greenglass "was adjourned un-
til July 13 at the request of the Government." (Emphasis added.)
Mr. Saypol's stated reason for the delay was that he needed "an addi-
tional week to gather evidence to present to the Grand Jury" meeting
in Santa Fe on July 6.

Here we may pause to ask: If the FBI was in possession of Gold's
voluntary disclosures since May 22, as well as Greenglass' full con-
fession since June 16, then why did Saypol need more time "to gather
evidence" for the Santa Fe Grand Jury? When we consider that Green-
glass' self-admitted espionage rests on *no other evidence* than the
testimony of Ruth, Gold and himself, it becomes apparent that Say-
pol's delay was simply to maintain and increase the pressure.

In the next two days, however, a new element was added to the
pressure, one that was undoubtedly of the greatest weight. For on
June 25 came this menacing news:

**"WAR IS DECLARED BY NORTH KOREA
"Communist Regime Attacks South Republic . . .
U. S. Holding Soviet Responsible . . ."**

It is hardly necessary to dwell on the panic of the Greenglasses
at this moment of history, nor on the reactions of the politically
astute Mr. Rogge, who knew this was no time to continue protesting
the innocence of a former Y.C.L. member accused by the "confessed"
atom-spy, Harry Gold.[†]

As for Irving H. Saypol,[‡] J. Edgar Hoover and J. Howard McGrath,
the Korean news presaged the "inevitable" all-out war with the Soviet

^{*}Rogge file memo dated June 19, 1950. (See Appendix 3.)

[†]On the day after Greenglass' arrest there was this legend under his front-
page photo in the *Albuquerque Tribune*:

**"GREENGLASS FORMER MEMBER OF YOUNG COMMUNIST
LEAGUE"**

In the *New York Times* Greenglass' "Red" past had been emphasized in
the opening sentence of its front-page story:

**"A 28-year-old former Young Communist League member who, while
in the army . . ."**

In all United Press wires, the release stated: "The FBI said that Green-
glass had been a member of the Y.C.L. in 1938 . . ."

[‡]Elected by *Time* as "the nation's No. 1 legal hunter of top Communists."
(July 23, 1951.)

Union, and it was open season on all "potential traitors and 5th
Columnists."

On July 6, the day of the Santa Fe Grand Jury meeting, the *Albu-
querque Tribune* contained, in ominous juxtaposition, these head-
lines for the Greenglasses to ponder over:

**"YANKS IN GENERAL RETREAT;
PYONG TAEK LOST"
"LOCAL SPY DRAMA OPENS IN
SANTA FE; QUICK REPORT SEEN"**

The choice given Greenglass was made unmistakably clear:

"Greenglass would be brought to New Mexico for trial if he is
indicted *unless he pleads guilty*." (Emphasis added.)

On the next day, July 7, the *Albuquerque Tribune* hinted at the
swift "justice" Greenglass might expect in New Mexico:

". . . The former Y.C.L. member was indicted yesterday. The
Grand Jury took only two hours to reach a decision. . . .

"Court officials said that the Grand Jury's action would not
affect a 'removal hearing' scheduled in New York next Thursday
[July 13]. . . ."

But the Greenglasses and Rogge did not dare wait for the *final*
"removal hearing" of July 13. Indeed, they had already stopped
fencing for better terms the day the indictment was returned on
July 6. And whereas it had been Saypol's move to request a delay
on June 23, now with the Korean War in full blast and the forbid-
ding news from New Mexico, it is Rogge who eagerly makes the
request and thereby surrenders his client completely. Here is the
Albuquerque Tribune report of July 12, showing that he hastened
to surrender one day *before* the deadline:

"The hearing before U. S. Commissioner Edward W. McDonald
had been scheduled for tomorrow.

"The adjournment was granted at the request of O. J. Rogge,
counsel for the 28-year-old Brooklyn-born defendant."

Such, then, was one of the principal pressures exerted against the
Greenglasses. It was not unlike the practice of Southern prosecutors
who obtain "confessions" from Negro "suspects" by threatening to
turn them over to the tender mercies of hostile deputies.

Perhaps the oldest and most effective form of police coercion lies
in the use of terrifying object lessons. It is what we see happening to

other victims that strikes home. Such an object lesson was provided Greenglass on the very day of his arrest with front-page headlines that another spy contact of Harry Gold had been "seized" in upstate New York on charges of "having given Mr. Gold a sample of a secret explosive" back in the year 1943. He was a chemist by the name of Alfred Dean Slack residing in Syracuse and it was announced that he had "admitted" his espionage with Gold.

The highlight of this news release which was announced from the Washington headquarters of the FBI was obviously "timed" with Greenglass' arrest. No other explanation exists for the FBI's decision to pick up Greenglass on that particular day. One can be reasonably certain that the event reported so sensationally in the newspapers and on the radio must have had a considerable effect on Greenglass' temporary submission that night as well as throughout the various stages leading to his final submission.

At every stage in Slack's arrest there was studied deception. Although the admission of guilt stemmed only from the FBI and not from Slack himself, his denials received scant attention and were buried away in back pages. At his arraignment in Utica, according to the *New York Times* of June 16 and 18, 1950, he indignantly told reporters:

"This mistake will be eventually explained."

"I am not now and never was a member of the Communist Party and never will be."

Asked by a reporter if he knew Harry Gold, he said, "I don't recall ever knowing anybody by that name."

So powerful, however, was the force of official dictum, that only one day after it had printed the admission of guilt as an FBI *announcement* the *New York Times*, of June 17, stated erroneously that the admission was made by Slack *himself*:

"On Thursday, the FBI seized Alfred Dean Slack, 44-year-old Syracuse chemist. *He admitted* giving samples of a secret high explosive to Gold." (Emphasis added.)

Not only was the guilt of Slack taken for granted by this important newspaper, but his alleged espionage with Gold was tied in directly with that of Greenglass in a preceding paragraph in the same article:

"This [Greenglass] was the third arrest in the Russian spy ring investigation since Fuchs talked to FBI agents in London. The first was that of Gold."

Thus, there can be little doubt that by Greenglass and his attorney with a city. For here was another victim of Greenglass under \$100,000 bail, *also* being charged with a penalty of death, and *also* being taken to a potentially hostile state, namely Tennessee. It was reported that Slack was taken there in U. S. Marshals.*

On June 23, there was only a brief statement that Slack had arrived in Tennessee, "taken before a Grand Jury." After a chilling silence for months, save this about his wife and two children, apparently stranded, since "the family in

"Neighbors . . . rallied to raise money for Slack] and her two children. The Methodist minister and Charles H. H. were helping to raise the fund. . . ."

In the meantime, the news reports rushed to Tennessee to try somehow one must try to see the full picture of the Slacks as well as that of the Greenglasses of parents of two children became victims of the unsupported accusation that the Slacks could conclude that Greenglass could prevent his removal to New Mexico. Greenglasses could deduce that Slack had a very beginning.†

*According to reporter Oliver Pilat, Slack was given the severity as long as he pretended innocent. †The case of Slack was never tried before a jury by his court-appointed attorney, Ray J. J. Justice Department, and the most unlikely the three-month period before his indictment exchange for a "deal."

This "deal," as later exposed in his appeal sentence with promise of quick parole. (N

When, however, Slack was apparently "taken" to a teen-year term (*New York Times*, Sept. 23, 1950) for reversal of sentence:

"... That a Government prosecutor, N. J. be paroled after a few years if he pleads guilty to a year term." (*New York Times*, June 20, 1950)

Note: It may be recalled that Slack's at

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In support of this time-worn police method of playing off one victim against another, there is this revealing point made by the New York Post reporter Pilat in his book:

*"Paraphrased fragments of a confession by Slack, made public by the Justice Department, confirmed Gold's story and set the stage for future prosecutions. The outcome of this particular prosecution [Slack's] really carried a private message to others exposed by Gold: If you tell what you know, and thereby help to unroll the net further, you may receive as much leniency as can be arranged through the courts; otherwise, you will get the legal limit."** (Emphasis added.)

To recapitulate the various pressures that led the Greenglasses to "cooperate" that first month, they can be summed up as follows:

1. The terrific pressure which the prosecution had in Harry Gold, who stood ready to make and elaborate any accusation required of him.
2. The example of Slack, whose reported admission of Gold's charges acted as a catalyst in making Greenglass realize his helplessness and the utter futility of further resistance.
3. The fact of Greenglass' Y.C.L. membership coupled with Julius' Signal Corps dismissal as a party member, which became, with the outbreak of the Korean War, almost universally accepted proof of "motive" to serve the Kremlin.
4. The threat of prosecution on charges of espionage, which began with the FBI's visit of February, 1950, concerning the stolen uranium sample. Here, Greenglass must have feared that he would be accused of turning over the uranium to the Soviet Union via Harry Gold.†

chosen as counsel by the McCarthy Committee in the Army-McCarthy hearings. Those who witnessed Mr. Jenkins' gentle handling of McCarthy in the televised proceedings can well appreciate the role he must have played in the Slack "deal." In fact, when Roy Cohn reminded him of this representation, television viewers will recall the pained reaction on the part of Jenkins and his reply that he wished to forget the entire matter. **Op. cit.*, p. 266. It should be noted in further proof of the existence of this particular form of pressure that Mr. Pilat's relationship to Saypol at this time was that of a confidential public relations expert. This fact is exposed plainly in another confidential memo of Rogge, dated Aug. 23, 1950. (See Appendix 5.)

†In this regard, it is significant that the FBI announcement about Slack also emphasized secret samples of explosives delivered to Russia via Gold:

"Federal agents said Slack had admitted giving to Harry Gold... samples of the secret high explosive, RDX." (New York Times, June 20, 1950.)

5. The additional threat to expose Greenglass' Army thefts and blackmarketing, which would not only lay a foundation for his lack of patriotism, but serve to further inflame a New Mexico jury.

6. The tightening vise of the threatened removal to face trial in New Mexico, so dreaded by the Greenglasses as revealed in Ruth's confidences to Rogge.

7. And finally, the pressure created by their own attorney, O. John Rogge, who, in his position of trust, could accomplish whatever the prosecution could not.

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"Mr. Rogge: May it please the Court . . . I too have had experience in prosecuting and I have also had experience in assisting in investigative agencies, especially the FBI in former years."

"Judge Kaufman: I must say, Mr. Rogge . . . a lawyer plays a vital part in clarifying in a witness's or defendant's mind the proper thinking. . . ."

— Proceedings re sentence of David Greenglass
(Record, pp. 1624, 1629)

In the official record of the Rosenbergs' final appeal there is contained the famous "newly discovered evidence" proving beyond all question that the Greenglasses were "liars and perjurers."* Documentary evidence was furnished in the form of Rogge's confidential file memos, previously mentioned. These memos were officially acknowledged as authentic.

In Chapter 6 we will take them up in more detail and show that Rogge originally promised the Greenglasses that neither of them was to be indicted, and that each would "merely be named as a co-conspirator." Later, when this "deal" was threatened with exposure, there was the promise that while David would have to stand trial as a defendant, he would receive only a very light sentence — possibly even a suspended sentence, otherwise termed by Rogge as a "pat on the back."

It was by means of such promises that the Greenglasses were entrapped deeper and deeper. When we consider the enormous tensions they were under at the time of David's arrest, their burdensome existence, their harassment by the FBI, their plaguing fear of prosecution because of David's thievery, and their long accumulated store

*Transcript of Appeal, October Term, 1953. (See Appendices 1-11.)

of resentment toward the Rosenbergs, it is doubtful that Rogge had much difficulty in preparing them for "the proper thinking."

To illustrate, let us examine the very important memo concerning Ruth Greenglass' confidential interview with Rogge that first Sunday afternoon following her husband's arrest. It concludes with these remarks:

"OJR pointed out that if Dave was innocent he should talk; that if not it would be advisable not to talk but to let the Government prove its case.

"The third course was that of cooperation. That was also discussed at length."

At the outset, we see that all three courses were discussed at length. But in reconstructing the scene, it is necessary to bear in mind the central purpose of the discussion, namely, that Rogge and Ruth Greenglass are concerned *not* with the question of actual guilt or innocence, but rather with what course of action to take in reply to the New Mexico complaint.* In other words, are the Greenglasses to insist on their innocence, plead guilty, or cooperate with the Government — and what to do in each instance?

Hence, in the first instance, when Rogge is pointing out the possible stand of innocence, the phrase "he should talk" means that David would make public the entire story of the FBI's coercion. This would include not only the FBI's intimidation of recent weeks,† as well as the pressures exerted upon David during the twelve hours of his interrogation, but also the harassment that began back in February regarding his theft of the uranium sample. That this harassment was the key to David's compliance is evident from Ruth's disclosures contained within this same memo:

"Shortly before their accident [Ruth's burns in February] the FBI asked if they had a specimen of uranium in the house. . . ."

And in the paragraph preceding the above, the following is divulged:

"She would not have allowed her husband to bring anything home after Hiroshima had disclosed what the project was. She

*The memo closes with this notation: "Questions to be looked up." It is significant that the first two questions deal expressly with the complaint:

"1. Was the arrest valid — was he [Greenglass] held in detention before the complaint issued?

"2. What is the effect of the complaint?"

†It is in this same memo that Ruth tells Rogge about the FBI's intimidation tactics. (See Appendix 3.)

intended to raise a family and did not want to go around."

In the paragraph immediately following, in which the Greenglasses were seriously considering talking by asserting their innocence:

"People in the neighborhood want to know what's going on."

"People keep flocking to the house to see us."

. . . The Jewish *Daily Forward*, a Jewish newspaper, is very excited about the case and has offered a lawyer."*

In short, then, a stand of innocence by itself would include a grateful acceptance of this support, which would mean repudiation of David's signed confession of the coercion. In other words, "he should talk" means "he should talk the Government's charges all the way."

In the second instance, what was meant by "cooperation" (for then Rogge would have the Government prove its case"), but rather the uranium. In this event, his defense would be that the uranium souvenir did not constitute espionage. The Government prove its case" would mean that Gold's charges, but that the uranium was not espionage.

In the third instance, we come to what is meant by "he should talk," or the course of submitting to the taking of this course would avoid remorse. To spare David the risk of standing trial (whether between Rogge and Saypol), it would necessitate the espionage conspiracy to include Julius and Ethel. There was not the remotest suggestion of Ethel.)

And so, as we return to the memo, we find the suggested course — that of "cooperation" — and the chilling sentence of the memo:

"There was a long discussion about the case."

The initials stand for Julius Rosenberg. The Rogge memorandum. It was dated July 1, 1951.

*In her testimony at the trial, Ruth concealed the fact that she had told no one of their innocence.

years later, on June 19, 1953, this "long discussion" led finally to the ending of Ethel and Julius Rosenberg's lives.

vi

In our analysis of the trial of the Rosenbergs we will see that David Greenglass deliberately concealed and falsified the all-important fact that he was interrogated by the FBI in February, 1950, concerning the theft of uranium from Los Alamos. That such an interrogation indeed took place is proved by the undisputed evidence of Rogge's conference with Ruth Greenglass. In addition, we know from David's own brother Bernard that the uranium was actually stolen by Greenglass.*

Therefore we may reason logically that, if Greenglass were really a member of the alleged Rosenberg spy ring, the uranium would have had to be stolen in connection with Julius and/or Ethel Rosenberg, who were the only ones supposedly giving him orders or making requests for information. But the record shows *no such* connection. Hence one is forced to ask: Why did Greenglass and the prosecution deliberately conceal the fact of his uranium theft and of the FBI's investigation of that fact? There can be only one answer: As the nub of the pressure exerted upon Greenglass, it *had* to be concealed in order to mask the entire frame-up against the Rosenbergs.

In a further effort to conceal the frame-up, it was the testimony of the Greenglasses that they had not been coerced in any way, shape or form, that they had confessed voluntarily and had told the FBI the full truth at the very outset. In addition, they swore that they had confessed because of remorse and a patriotic desire to make amends. But our inquiry thus far demonstrates conclusively that their confession and testimony were obtained solely through coercive measures, applied over a period of many months during which the Greenglasses were entrapped by their desire to obtain immunity.

In our analysis thus far we have focused our attention not on the trial testimony of the Greenglasses, but on the pressures to procure that testimony in the first period following David's arrest. But, simultaneous with those pressures, there was also an effort made to intimidate Julius Rosenberg; in fact, on the very next morning following David's submission.

*An affidavit to this effect, sworn and signed by Bernard Greenglass on May 31, 1953, is contained in the record of the final appeal. (See Appendix 7.)

And so, in completing our sequence of Fuchs, Gold and the Greenglasses, we come to the Rosenbergs and the expectations of the FBI, Saypol and his eager staff of Red-hunters; namely, that Julius would be just as "cooperative" about his brother-in-law's "confession" as the latter had been about Gold's "confession."

5 | And Finally the Rosenbergs

*"...Any man's death diminishes me,
Because I am involved in Mankind;
And therefore never send to know
for whom the bell tolls;
It tolls for thee."*

— John Donne

IT was shortly after eight in the morning. It was a Friday, the 16th of June, 1950. A car with three men drew up before a large apartment development on the lower East Side of New York known as Knickerbocker Village. They entered one of the buildings numbered 10 Monroe Street and examined the panel of letter boxes for the name of Rosenberg. Finding it, they stepped into the self-service elevator and pressed the button for the 11th floor. . . .

In his undershirt, shaving before the bathroom mirror, Julius Rosenberg listened to the children's chatter as their mother strove to dress and ready them for school.* The two boys shared the bedroom. In the living room, a studio couch served as a bed for the parents. The kitchen was the third room. The apartment was so small Julius could easily hear the percolator bubbling.

They had stayed up late the night before worrying about Ethel's brother David and his detention by the FBI. They had wondered how much the FBI would try to make out of a twenty-two-year-old G.I.'s immature impulse to take home and "show off" a souvenir sample of the mysterious metal that had gone into the atomic bomb.

They knew that back in February the FBI had come to question David. They had guessed it was about those things he had stolen from the Army. From what Ruth had once told them, they had always supposed that the thefts had been confined to tools, parts and gasoline. Apparently, this had been a widespread practice in Army camps during the war, especially overseas. But subsequently David had

divulged that it was much more serious than he had been questioned about having taken from Los Alamos. Evidently, following David as an atomic spy, the FBI was trying to determine membership in the Y.C.L. with the stolen political climate anything was possible. . .

There was a knock on the door. With his hand crossed to open it. Three men stood in the hallway. Enough, "We are from the FBI — we would like to talk to you."

It was David they wanted to talk to. It appeared that he was still in custody. The room in order, one of the detectives seemed convenient if Julius accompanied them to the bathroom.

In the bathroom, when Ethel brought David, if he ought not seek the advice of an attorney, thought, since the FBI men only wanted to see David, such precautions were unnecessary. That David was in any serious trouble, that something about it.

It was only a few minutes' drive to the office on Foley Square. The elevator carried them to where the FBI maintained its offices high above the street.

One of the agents, a Mr. Norton, took out a pad and pencil. Another, called Harrington, sat at a desk. The third agent pulled up a chair and the questioning commenced. It had, as it turned out, serious business relations with his brother. He wanted to know about his own background and work. . . .

ii

In the testimony of Julius Rosenberg a full account took place in the FBI office on June 16, the day hence to this phase of the questioning. How much of his and Ethel's direct examinations, and the graphical material.† In addition, there are biographical references contained in his previous

*The younger one, Robert, aged three, attended a nursery school in Knickerbocker Village. Michael, aged seven, attended public school.

†The details of Julius' interrogation by the FBI are found in his direct examination; Record, pp. 1202-1203, 1222-1223, 1225-1226. ‡Record, pp. 1051-1060, 1293-1299, 1302, 1305-1306.

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the research made by Virginia Gardner.* Finally, there are the personal interviews this writer has had with friends of the Rosenbergs, their attorneys and members of the family. From all these sources, we are enabled to assemble the following account of the life of Julius Rosenberg.

"I was born of orthodox parents and raised in the slum tenements of the lower East Side. My childhood memories are full of the struggles of my parents to feed and clothe five children. . . ."

In the year 1902 a tall youth named Harry Rosenberg arrived in Ellis Island, a steerage immigrant from Czarist Russia. He readily found work as an apprentice in the great sweatshop garment industry of New York.

When he was twenty, he fell in love with a round-cheeked girl of seventeen, named Sophie Cohen, also of Russian parentage, who worked in a shirt factory.

A year or so later they were married, and eventually blessed with five children. The youngest, a boy, born on May 12, 1918, was named Julius.

When Julius was three years old the family lived on the top floor of a five-story tenement on Broome Street. In winter, with the melting snows, the roof leaked so badly that icicles formed from the ceiling drip.

"We were so poor," one of Julius' sisters recalls, "my mother would hardboil an egg so that she could divide it among us all." With the postwar depression of the early twenties, strikes were frequent in the garment industry and it was "quite a pull to make ends meet" for the Rosenbergs. "There was no bread in the house finally, and no milk," tells Julius' mother. "I had to leave Julie and go down and stand in line, a long line, where the union was giving out milk to the families of the men on strike."

"At Hebrew School . . . I absorbed quite naturally the culture of my people, their struggle for freedom from slavery in Egypt. As an American Jew with this background, it was natural that I should follow in the footsteps laid down by my heritage. . . ."

**Death House Letters of Ethel and Julius Rosenberg*, Jero Pub. Co., New York, 1953; Virginia Gardner, *The Rosenberg Story*, Masses & Mainstream, New York, 1954.

When Julius reached school age and was enrolled at Public School 88 he entered the Downtown Talmud Torah at the same time. Here he studied Hebrew and Biblical philosophy, and was graduated with highest honors.

Yet he was not altogether the Bible student; among his boyhood books his mother still treasures are Horatio Alger's *Phil the Fiddler* and Edgar Rice Burroughs' *The Chessmen of Mars*. There were also *The Motor Boys Under the Sea* and *Tom Swift and His Electric Runabout*. And on the streets of the East Side Julius proved no more saintly than any other kid on the block. "When some boy would pick a fight, my Julie would fight him," his mother readily concedes, "but he'd never tell who the other boy was. So I stopped asking."

Passover was the high holiday Julius loved best, for it commemorated the release of Israel from bondage. After the 3,500-year-old question each Jewish lad asks his father, "Why is this night different from all other nights?" there were the songs, the good food and the game of who could first find the piece of unleavened bread hidden by the father. "My brother loved to laugh, everyone loved his company," his sister recalls.

Julius' former Hebrew teacher never forgot him: "Julie left a very deep mark . . . the finest of Hebrew scholars. . . . In our school, our teachers were free. We spoke as we honestly believed. . . . When I taught the Prophets, it was not just to speak of what happened thousands of years ago, but what was happening around us. A strike was in progress at Ohrbach's. I spoke of it in connection with a chapter in Isaiah: 'For ye have eaten up the vineyard; the spoil of the poor is in your houses.'"

While in his senior year at Seward High Julius had been elected vice president of the Young Men's Synagogue Organization. On Sundays the fifteen-year-old vice president found it necessary to earn pocket money by peddling penny candy. Sometimes, he recalled, "the profit went from a low of forty cents up to eighty cents for a good day."

"I remember when my father, a garment worker, was in a long strike against sweatshop conditions. Because he was a shop chairman and an active unionist, my father was blacklisted. . . . We lived in the midst of the great depression. . . ."

It was 1933, the year of farm foreclosures, breadlines, soup kitchens and Hoovervilles. It was the year when Hitler came to power and Roosevelt endeavored to put 14,000,000 unemployed back to work. In the beginning of that year Hermann Goering had his Storm Troopers set fire to the Reichstag (Parliament), but cast the "blame

upon the Communists," as the first step toward "proscribing all political parties . . . beginning with the Socialist Democratic Party." And by the end of that year systematic anti-Semitism was well under way with the reduction by law of "the percentage of Jews in Government life, in industry and in the professions."* And in 1933, in San Quentin Penitentiary, a trade unionist was serving the sixteenth year of a life sentence.

"One day I stopped to listen to a speaker at a street corner meeting. . . . His topic was to win freedom for Tom Mooney, labor leader who was imprisoned on a frame-up."

"That night I was reading a pamphlet I bought from the speaker giving the facts of this case and the next day I went and contributed 50 cents. Then I began to distribute the pamphlets and collect signatures on a Mooney petition from school friends and neighbors. . . ."

Some six years later, after twenty-two years of imprisonment, a "full and unconditional pardon" was granted by Governor Culbert Olsen, stating unequivocally: "Thomas J. Mooney is wholly innocent . . . his conviction was based wholly on perjured testimony presented by representatives of the State of California."

"At school, I took a very active part in the campaign to free the Scottsboro Boys. . . ."

In the year 1933 another frame-up came to national attention. It was that of the nine Negro boys sentenced to death in Scottsboro, Alabama. Two had been only thirteen and fourteen years old when arrested. Their conviction, too, had been based on perjured testimony, most of it from a self-admitted prostitute with a known police record. But in those years there had been a different climate of public opinion, and the United States Supreme Court reflected it by ordering the benighted state of Alabama to grant new trials.

By 1934, when Julius entered the College of the City of New York to study engineering, Mussolini had commenced his armed attacks on Ethiopia. Then came the occupation of the Rhineland, then the war upon Spain and the Japanese onslaught on China; soon were to follow Austria and Czechoslovakia. And while business went on "as usual" between the Rome-Berlin-Tokyo Axis and the Western democracies, in American colleges the American Student Union was

the only organization that spoke out against the bath.

Some fifteen years later, at Julius' trial, it constituted the crime of "premature anti-Semitism" in the City College chapter was offered a toward "treasonable activities." In his recollection of this incident in his freshman year:

" . . . The president of the college . . . foreign students from fascist Italy to good will for that regime among us students."

"When the prexy got up to speak . . . of boos. He was forced to sit down with though he managed to state that our 'co snipes!'"

"To re-establish order they allowed . . . of the council, to take the rostrum. . . . when he began: 'I was given permission to say anything derogatory against laws or message to our enslaved and tricked fascism.'"

"The truth cut too deep and the Fascists away from the microphone and a free-sand voices thundered in the Great Hall [Down with fascism!]"

"At this point the prexy called in New York police] and the college student body nightstick civics."

"Within a week almost the entire . . . buttons that read: 'I am a gutter-snipe.' . . . events such as Il Duce's bringing 'ci bombs, flames and death, proved we were expelled.'"

Such were the political highlights in adolescence. However, his other interests were those of any other college freshman. At the time of his housing development called the Lavanburg night there were cultural lectures which double-dating with other boys and girls. Also plays put on by the Lavanburg Players on special occasions when actors and Theatre uptown would present stimulating

*Information Please Almanac, John Kieran (ed.), Macmillan, New York, 1951. The World Almanac, Harry Hansen (ed.), World-Telegram, New York, 1950.

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Then, of course, there were Sunday hikes and outings on the Palisades, and on summer evenings good music at the C.C.N.Y. Stadium. On Saturday nights there was always a dance given at one or another of the Settlement houses, and here, too, Julius would double-date and complete the evening with the usual "chow mein" supper in nearby "Chinatown."

When he was eighteen, Julius was a tall, slim and good-looking boy. It was Christmas week of 1936, and he was invited to a party on the East Side. One of the girls there sang the famous aria "One Fine Day" from *Madame Butterfly* and, as an encore, Gounod's "Ave Maria." She was a petite girl with soft, dark brown hair, a shy smile and a most expressive face, one which Julius' mother would describe as a "malach's ponim" — the face of an angel.

Her name was Ethel Greenglass, and, although she was two years his senior, he felt himself a good deal older and more experienced. He was very proud when she later confided that he was actually her first "boy friend." When he learned that Ethel had often participated in the rehearsals of the Lavanburg Players and attended the Group Theatre lectures right in the same building where he lived, he was astonished that they had never "bumped" into each other, at least in passing. Almost from the moment they met they were inseparable. As one of Julius' friends relates, "Julie practically never left her side."

On June 18, 1939, Julius and Ethel became man and wife in an orthodox ceremony performed by Rabbi Zin. The young husband had graduated from college only four months before and had obtained a temporary job as a tool designer. And while Ethel continued her work as a secretary, they made their home in a rented bedroom of a Brooklyn apartment belonging to some good friends.

In the interim Julius had passed his government examinations and received his post as Junior Engineer, his work consisting of the inspection of electronic equipment manufactured for the Signal Corps.

By 1942, when he had been promoted to Assistant Engineer at a salary of \$50 per week, the Rosenbergs felt affluent enough to apply for an apartment in the new housing development on Monroe Street. It was only three rooms, kitchen, living room, bedroom and bath, but it was a palace compared to anything they had ever lived in before and the rent was reasonable.

From a friendly couple who were moving to California, they borrowed the essentials: a bed, a maple table and a bookcase. Another friend offered them a breakfront unsuited to his own apartment and Julius managed to have it carted over for five dollars. There was an

advertisement in the housing development's gazette, the *Knickerbocker News*, of a second-hand piano for sale at \$25, and Ethel made the purchase.

In the year 1943 their first son was born and named Michael Allan. Ever since Pearl Harbor, Ethel had served as a Civil Defense worker and had also rendered considerable community service for the Henry Street Settlement. With her first baby, however, there was little time for more than her housework, what with cooking, cleaning and doing the laundry.

Frequently Julius, as Civil Service Chairman of his union, would stay up late working over grievance appeals. Sometimes a neighbor would drop in and ask them to contribute to the Joint Anti-Fascist Refugee Committee, then concerned with aiding the forgotten victims of Franco. Once, they were asked to circulate a coin-collection can labeled, "Save a Spanish Republican Child." However, Ethel, finding her time too limited, instead contributed a dollar, and kept the little can on an open shelf as a hint to their friends to do likewise.*

In the autumn of 1944 Ethel became quite ill and was bedridden for many months. It was due to a weak back from which she had suffered since childhood. All during this period, since Michael was still a baby, Ethel had a woman come in to help.

It was in February, 1945, that Julius was brought up on FBI charges before the Signal Corps "that he was a member of the Communist Party." In reply, Julius firmly denied in a written statement that he was or had ever been a member of the Communist Party.†

Despite this denial and despite all efforts at reinstatement, Julius was dismissed without a hearing and he was forced to look for another job. He found one within a short time at the Emerson Radio Company, where he worked for somewhat less than a year at a salary of \$70 to \$77 a week.

Early in 1946 Julius' father died. A year later, when a second son was born to the Rosenbergs, he was named Robert Harry "in beloved memory." Recalling his family life while in the death house, Julius wrote to his wife nostalgically:

"Do you remember the procession when it came time for the little one to be put to bed? You led the way holding his feet, I held his shoulders and Michael marched in the middle with his brother's back resting on his head. It was loads of fun. . . ."

*During the trial this coin-collection can became Government Exhibit 27, and was introduced as "documentary evidence" to prove the Rosenbergs' inclination and potential for espionage. (Record, pp. 1176-1177.)

†Record, p. 1185.

"I've been thinking, darling, it is almost three years since we've lived with our children. How we treasured every moment with them and how wonderful it was to share each and every accomplishment of theirs. A new painting, a nice block building, a particularly meaningful action of our boys, signs of growth, indications of abilities for music, art and the general problems of joy, worry and pain that go with the beauty of family life . . ."

In the spring of 1946 Julius left the employ of Emerson Radio to enter a partnership with his two brothers-in-law, Bernard and David Greenglass, the latter recently discharged from the Army. Twice the failing business was reorganized, and, as has been recounted earlier, after 1949 the Greenglass brothers left Julius to carry on alone.

With his absentee partner, Mr. Schein, Julius had negotiated for the transfer of stock. It took his last Savings Bond, plus scraped-up loans from his family, to make the \$1,000 down payment, and he still had to pay off the \$4,500 balance to Mr. Schein in installments of \$160 per month.

Concerning the \$1,000 he had agreed to pay David for his share of stock, it seemed to Julius that the Greenglasses ought to be more patient and more considerate, instead of plaguing him for promissory notes which they knew very well he could not pay in the near future.

iii

*"Somewhere in the long ago I had a normal life
with a sweet wife and two fine children and now
all is gone and we are facing death. . . ."*

Following the highlights of his own background, the FBI men questioned Julius about the education and work background of David Greenglass. After that, they asked him to focus his attention on the dates on which David had come home on furlough back in 1945. Didn't he have a talk with David on or about January 5, in that year? Yes, he could remember inviting the Greenglasses for dinner, just as all the family had done, but that was more than five years ago, and what exact day it had taken place he could not recall. There was more of this line of questioning, when suddenly one of the detectives tossed at him:

"Do you know that your brother-in-law said you told him to supply information for Russia?"

Julius stared at them incredulously. "That couldn't be so," he replied. "I don't have the mind to say things like that. Will you tell me that to my face?"

"What if we bring him here, what asked teasingly.

"I'll call him a liar to his face!"

But they refused to produce David. Would they tell where he was being actually arrested.

"Look, gentlemen," Julius stated firmly. "Come down and get some information. Now, you're trying to implicate me in this. I see a lawyer."

"Oh, we're not accusing you of anything," he replied reassuringly. "We're just trying to get the truth."

There was no attorney Julius knew of. The one who represented his union, he thought, was this lawyer, Mr. Victor Rabinowitz.

The request was ignored; instead of asking one question to another, interspersing questions as, "Have a smoke? Have a piece of something to eat?" Again and again, they asked the same question. Was it during the month of January? Was it winter or summer? Yes, he had a furlough visit that winter, but how on what day and month . . . ?

Then again came the key question, "Will you turn over information for the Russians?"

"No!" Julius retorted. "And I want to know what you're trying to involve me."

Oh, no, they said — it was David who suggested you talk to Ruth Greenglass before she suggested to her that she get information on an atomic project that was out there?"

"I did nothing of the sort!"

"Didn't you make arrangements for contact in Albuquerque, New Mexico, for what means were to be used?"

"I didn't do anything of the sort. I never."

The detective, named Norton, started the telephone rang. Mr. Harrington answered.

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; it was Julius' wife. . .

She had been anxious about him — was he still there? Yes — he was right here. They handed him the telephone.

"Hello — well, I haven't been able to find out yet — but they've been making some foolish accusations, so please get in touch with —"

One of them stopped him promptly. No sense worrying his wife. There were only a few more questions, anyway. . .

Didn't he take David along with him one night in January of 1945 to a certain meeting place above 42nd Street in order to meet a certain man who wanted to ask David certain data on the A-bomb? No, he did not! He never knew any such man and there had never been any such meeting! Didn't David borrow for this meeting a car belonging to his wife's father, Mr. Printz?

"No! Hzs David Greenglass accused me of doing these things?"

"He certainly has — he's accused you of asking him to steal secrets."

"Then let me be confronted with him!" Julius demanded.

And whether it was this insistence or whether they feared the possibility that Ethel might call a lawyer, they finally acceded to Julius' demand for counsel and Norton put in the call to Mr. Rabinowitz' office. After a moment, he turned to Julius to report, "He's not in."

"Well, I'd like to talk to anyone there."

"They say his partner is there —"

"He's a lawyer — I'll talk to him."

Taking the phone, Julius introduced himself and explained that he was being questioned by the FBI. The partner, alert to the ways of the police, whether Federal or local, came directly to the point:

"Are you under arrest?"

"I don't know."

"Ask the FBI there if you are under arrest."

Julius turned and asked, "Am I under arrest?"

"No," Norton said.

"He says, 'No,' " Julius relayed.

"Well then, just pick yourself up and come down to our office," the lawyer advised and hung up.

Whereupon Julius rose, nodded politely, said "Goodbye, gentlemen," and walked toward the door. None of the three detectives tried to stop him. They merely looked after him in silence.

It was a little after 3 o'clock when Julius descended the granite steps of the Federal Building and passed a newsstand. He stopped short. There, staring at him from the front page, was a photo of David Greenglass and the FBI's official announcement of his arrest — as an atomic spy!

He searched for any mention of his own name, but there was none. Along with the story about David's Y.C.L. membership was another

official FBI release, announcing the arrest of a "Russian-born" physicist in California:

"FBI ARRESTS SCIENTIST AS RED"

The scientist was a Dr. Sidney Weinbaum and the charges were "that he had concealed membership in the Communist Party." It was evident to anyone why the FBI had "timed" these two arrests for the same day. Here were the perfect stereotyped requirements for the scapegoats of 1950: "Russian-born," "scientist," "Red," "Y.C.L. member," "A-secrets passed," all coupled together with the Jewish names "Weinbaum," "Greenglass" and "Gold." It made a rather neat package, and a frightening one, for every paper contained the ominous phrase:

"Greenglass, if convicted, faces a maximum penalty of death."

At the law office of his union attorneys Julius was advised to secure the help of counsel with wider experience in civil liberties cases. The name of a well known liberal attorney was recommended. His name was Emanuel H. Bloch. His office was on lower Broadway but it was too late to reach him that afternoon. Julius was advised to try him at home later that evening.

iv

It was the most casual first meeting for two men whose names were one day to ring around the world as symbols of unyielding courage in the face of all conceivable odds.

At his apartment that night, Emanuel Bloch was entertaining some friends. When the call came from Julius, rather than intrude his business upon his guests, he suggested that they meet each other at the nearest subway station. This was at Sixth Avenue and Eighth Street, a short distance from Bloch's apartment off lower Fifth Avenue. Both agreed that since the night was warm it might be more agreeable talking the matter over while taking a walk. They recognized each other easily from their self descriptions: Julius' glasses, mustache and gray suit, and the older man's iron-gray hair.

Emanuel Bloch's first impression of Julius was that of "a rather soft, sweet, intellectual sort of fellow," and his first reaction to what had happened that day was that it would be "just another routine" Fifth Amendment case. It seemed to him, in view of Julius' past persecution by the FBI (their unproved accusations to the Signal Corps that he had been a party member), that they were now en-

endeavoring to involve him more seriously. It was possible they might summon him before a Grand Jury and question him about Greenglass' alleged espionage or Y.C.L. membership. In this case, it would be their hope that he would be too frightened to exercise his Fifth Amendment privilege. If he were to deny, even truthfully, any Communist Party membership and/or espionage, they could then charge him with perjury, and in the present atmosphere conviction was more than possible.

In short, Mr. Bloch thought Julius was "in the same boat with hundreds of other people" these days, and there was only one course open to him if he should be summoned: To simply take his stand on his constitutional rights no matter what was made of it.

In the meantime, Mr. Bloch concluded, there was little sense in being perturbed about the matter (and he was glad to see that Julius was not), since the whole affair might blow over in a couple of weeks.

Thanking the attorney for taking the time to meet him, and adding half-jokingly that he could not afford to take time to worry since he had a wife and two children to support, Julius shook hands with Mr. Bloch and went home.*

And so it was, on that night of June 16, 1950, that Emanuel Bloch became the attorney for Julius Rosenberg, and a short while later, for his wife, Ethel. And for the next three years and three nights thereafter, he was destined to do little else. In fact, it was his destiny to give his very life in the effort to save theirs.†

v

At no time perhaps in this entire analysis is the nature of frame-up more apparent than during this initial period when the Government officials were endeavoring to "make" their case against the Rosenbergs. It was perforce a hectic period, for the prosecution not only found it necessary to work out the main elements of the Greenglass story, but also the proper pressures to get the Greenglasses to create and elaborate that story. For example, when the FBI questioned Julius on June 16, the undisputed record shows that the man he was

supposed to have taken David to meet was Julius. In the trial did this man blossom forth as a "Russian agent?"

While this early period remains fresh before us, we see the pressure to remove Greenglass to the "islands." We saw how the dictated complaint was ordered. We saw the delayed removal hearings, the one that was stopped by Rogge. In addition to the terrifying New Mexico indictment on July 10, 1950, detectives were sent to testify before the Grand Jury, as we have just seen in the interrogation. The burden of the alleged conspiracy did not rest on Julius but in the Southern District of New York.

What was Julius Rosenberg questioned by the FBI? (1) That he had made a spy proposition to Greenglass; (2) that he had plotted espionage with Greenglass while on furlough in New York City; and (3) that he had "meeting with a man" in New York City. The purpose was only one purpose to the unnecessary pressure to coerce the Greenglasses with the threat of imprisonment. In other words, when Greenglass testified that there was no coercion and that he had confessed voluntarily, it was perjury but subornation of perjury, because he was lying and permitted him to lie.

Pursuing further our examination of the very illogic of the Government's move to frame-up Julius. The prime example of this is the interrogation of Julius Rosenberg and his wife.

It is not difficult to reconstruct the FBI's plan. It came to get Julius at 8:30 A.M., only signed their statement and had him in exhaustion. They were hopeful that they had gotten fired as a Communist from the Navy and also prove tractable; that he, too, would be used against him. They knew a culties with David. Everything about their tone of inciting Julius against his brother was a tactic to play one victim against the other. They obtained some results with David (and David's inclusion of Julius in the conspiracy, such tactics, that is, from the FBI's incitement had implicated David), they were hopeful of similar results with Julius. And even when the objective they were still hopeful. F

*In an interview with Mr. Bloch some two and a half years later, this writer asked the attorney: "Then you had not the slightest idea how far off you were that night?" Mr. Bloch's reply was: "My God, no!"

†Emanuel Bloch died of a heart attack on Jan. 30, 1954, at the age of fifty-two, some seven months following the executions of the Rosenbergs. (New York Times, Jan. 31, 1954.)

just a "man." Only at the an."

ore us, let us re-examine District of New Mexico." dered from Washington. ne postponed by Saypol, in order to obtain the 6, four New York FBI and Jury in Santa Fe. And ion of Julius, the main ce place in New Mexico,

about on June 16 by al to Ruth in New York h David during the lat- hat he had arranged "a lence, we see that there ew Mexico proceedings: of removal to that state. the trial that there was ntarily, it was not only e the prosecution knew

early period, we see by the creaking machinery was the FBI's premature unexplained release.

I'm thinking when they hours after David had o his admitted sleep of former engineer whom the Signal Corps would ke some statement that about his business diffi- questioning has the over- n-law. It is a time-worn Since they had already t is quite possible that y stemmed from exactly nt and hints that Julius that they could achieve hey failed in their imme- , with the prevailing at-

mosphere of fear, they could calculate that Julius would soon see the hopelessness of holding out.

Returning to the Government's claim that Greenglass had confessed his full story on June 15, one can again test its reliability by simply asking: Why were Julius and Ethel Rosenberg not arrested on June 16? Why was Julius released at all that afternoon if Greenglass had really "told the truth about their conspiracy" the night before? And one might add, why was he released if Harry Gold had really made a "true confession" three weeks earlier on May 22?

For, after all, what was the keystone that held together the testimony of Gold and Greenglass at the trial? It was the famous Jello box recognition device. This was Greenglass' testimony: That the Rosenbergs had arranged this device by tearing the side of a Jello box into two halves. That Julius had given him one half to match that produced by his courier. And that the eventual courier proved to be Harry Gold.

As for Gold, this was his trial testimony: That he had not only received his half of the Jello box side from the Soviet Vice Consul, Yakovlev, but also that he had been instructed to tell Greenglass that he had been sent by "Julius."

Therefore, if we are to believe the Government's case, the FBI had before them on June 16 the confessions of the two recipients of the two halves of the Jello box side — in other words, they had with these two links the *completed* chain pointing "indisputably to the guilt of the Rosenbergs."

Why, then, if the Government was truly in possession of this completed chain of evidence, was Julius not arrested for an entire month? And why was Ethel not arrested for almost two months?

It was also Greenglass' trial testimony that he had told the FBI on June 15 all about the principal crime he had committed, that is, the turning over to the Rosenbergs of the cross-section and the twelve-page description of the Nagasaki atom bomb. And in conjunction with this report, it was his testimony that Ethel had typed it up, that the Rosenbergs had told him how they microfilmed it on a "hollowed-out" console table, and that they had received wrist watches as gifts from the Russians as well as a citation.

Why, then, if the FBI knew on the morning of June 16 that they were dealing with a most important atomic spy, was there not a search made immediately for all this incriminating evidence instead of on the night of Julius' arrest one month later?

Thus the calendar of events uncovers the incredibility of the Government's case. By every rule of logic and precaution, they should have arrested the Rosenbergs forthwith and made as thorough a

search of their apartment as they did (according to David) of the Greenglass apartment. But the truth is they had no case *as yet* against the Rosenbergs on June 16. As for the accusations conveyed to Julius on that day, these were not accusations which had originated with David Greenglass, but with the FBI! And not only did the FBI know they were false, but there was also the fear that Greenglass would fail to substantiate them, because this is what happened on that June 16:

At 8:30 o'clock, when the FBI men went to pick up Julius, the compliant Greenglass was still asleep in an adjoining office in the FBI suite. But by noon he was awake and conferring with his attorney protesting his *innocence*. We know this from the undisputed file memos of Rogge, and also from the latter's disclosures at Greenglass' sentencing. Hence, even at the moment the detectives, Norton and Harrington, were telling Julius about David's "accusations" in one office, Greenglass, in another office on the same floor, was repudiating his confession. That it had been virtually dictated to him is evident from the opening paragraph of his officially acknowledged statement written and handed to his attorney the next day:

"I stated [in the statement signed for the FBI on June 15] that I met Gold in N. M. at 209 N. High St., my place. *They told me* that I had told him to come back later because I didn't have it [the information] ready. *I didn't remember this but I allowed it in the statement.*"* (Emphasis added.)

To sum up, the prosecution could not arrest Julius on June 16 on the basis of the Jello box story, for the simple reason that it had not yet been fabricated by Gold. The latter's recognition signal, "I came from Julius," was still to be invented. Ethel's typing had not yet been added to the "story." Nor had it as yet been determined just what atomic secrets Greenglass was to have "stolen." The Nagasaki atom bomb was still to be "piled on" the Russian-given console table. And as for the table itself, that item had not yet been "hollowed-out" for the microfilming.

In short, the FBI had to proceed by the usual one-by-one method. First, Saypol had to insure a plea of guilt by Greenglass. Second, the prisoner had to be made to burn his bridges, or entrap himself further by elaborating his initial statement into such a self-incriminating series of statements that he could not possibly repudiate them. Not until the prosecution had made these necessary steps could they

*This three-page handwritten statement of Greenglass to Rogge, officially acknowledged, became a crucial part of the "newly discovered evidence" in the final appeal. (See Appendix 2.)

proceed with the arrest of Julius. But, to make these steps, pressure on Greenglass had to be intensified. And, as we have seen, it was for this reason that the removal proceedings were instituted and kept going up to the point of Greenglass' submission on July 12.

Indeed, it is highly probable that had it not been for the outbreak of the Korean War on June 25 Saypol might not have succeeded as well as he did, if at all. But then again, had it not been for the hysteria heightened by that war, it is unlikely that he would have dared to bring before an American jury a frame-up as flagrant as the Rosenberg case, or that any sane, peacetime jury would not have recognized its rotten structure. But, even so, the prosecution could not afford to tarnish its case with the disclosure that the testimony of the Greenglasses had been procured by intimidation and the "deal" arranged through Rogge.

That is why Roy Cohn so carefully rehearsed the Greenglasses to insist that they had cooperated from the start, and to present themselves as "repenting individuals" eagerly "coming forward and helping the Government." And it was precisely because Saypol was burdened with this rotten framework, that he could offer in explanation of Julius' month of liberty only the specious excuse that the FBI wanted to keep him under surveillance.

Thus we come to another important piece of the jigsaw puzzle, one that frequently appears in the technique of current frame-ups: the "built-in justification." Why, according to Saypol, did the FBI fail to arrest Julius Rosenberg or search his apartment? Because the FBI wanted to see if he would make an attempt to escape or contact his "superiors." To expose the absurdity of this we need only to turn to Saypol's summation and his *own* rebuttal of this point. For here he accuses Julius, during this very month of liberty, of:

"... trying to keep two steps ahead of the FBI; financing flight of other members of the ring and making his own plans to flee."*

The inherent contradiction, of course, is glaring. First, if the FBI *knew* that Julius was a dangerous spy, why would they allow him to keep "two steps ahead" of them, and how could he possibly "finance the flight" of other spies and arrange his own escape without their knowledge?

Second, there exists not one scrap of evidence, and not one word of testimony to support this reckless charge made by Mr. Saypol. On the contrary, there is the *uncontested* record that Julius "went about his business" each and every day as usual, that he came "home

*Record, p. 1534.

every night," and lived "the same kin before his interrogation. In other words, a different picture than the one Saypol master making frantic efforts to escape

In the third place, simple common sense would have the FBI first warn him so explicitly and under surveillance? Surely, the proper course would have been surveillance on a twenty-four-hour schedule, search for the console table, for the microphone, whatever incriminating documents or evidence. Certainly, one cannot expect to trap an agent without warning him in advance! And certainly, after the fact, expect a seasoned spy to carelessly pick up his co-conspirators for aid, or absentmindedly refer to his "superiors" in their inner sanctum. If the FBI had so sensationally released the new arrests, it was hardly necessary for Julius

In the Harry Dexter White case we learn that the reason the suspected White had been kept under surveillance was to prevent his being *forewarned* of a vestigation of him. In addition, the facts continued to tap White's telephone and operate a course would be senseless if White had been under suspicion, which was the situation. And finally, Saypol's explanation is demolished in a statement made before the un-American Activities Committee on March 27, 1947, as reported by the New York Times:

"In one of our espionage cases, a spy was kept under surveillance for eighteen months. The fact that he was the backbone of the Nazi spy system in this country was not disclosed until the initial days of that investigation."

"I shudder at what might have happened had there been disclosure of our operations and our secrets during the initial days of that investigation."

So much then for the "built-in justification" for Julius' liberty. The only valid explanation for Julius' liberty for 17 months is that the prosecution needed this period to get the Greenglasses and, with the aid of Ruth, to get the full story and add to it further necessary details. It is significant that it was exactly five days after

of routine life" he had the facts show a totally tints of a desperate spy- p to the last minute.

se demands: Why would then place him under sur- have been the most secret e and, if possible, a secret lming apparatus, and for nce might be found. Cer- nced spy-master by alert- uch an alert, one cannot p the telephone and call dly lead the FBI directly ! Furthermore, since the of Gold's and Greenglass' o alert his "superiors"! d from President Truman been retained at his post out the FBI's secret in- disclose that the FBI con- his mail. Obviously, such already been told he was with Julius Rosenberg. ished by J. Edgar Hoover ran Activities Committee York Times:

ring was kept under close arrests when made broke n America. ppened had there been a ources of information in (Emphasis added.)

n" offered by Saypol. The etween June 16 and July d to terrorize the Green- vid to stick by his signed atements. And it is most the Greenglass capitula-

tion regarding the final removal hearing that Julius was arrested, on the 17th of July.*

vi

They came at night this time at about 8:30 o'clock. It was bedtime for the two little boys when there came the knock on the door. Stand- ing in the hallway were twelve of them. Recognizing Norton and Harrington, Julius asked them in. Before he realized it, all the rest swarmed inside. Ethel was trying to shoo the youngsters into their room when she stopped short. There was a sudden movement near Julius, a flash of metal and the clink-click of handcuffs snapping fast.

While Julius stood handcuffed to two of them, the others began the search. When Julius asked whether they had a search warrant, he was told that his permitting them to enter constituted a waiver. The two little boys stood frozen and wide-eyed; it was like the "Lone Ranger" on the radio, being captured by a bunch of bandits. Two of the detectives pushed past Ethel and went into the children's bed- room, where they searched the closet and the small chest of drawers.

In the kitchen one detective saw a coin-collection can on the shelf, marked "Joint Anti-Fascist Refugee Committee." As he showed it to his companion, the latter nodded to take it along. In the living room two other detectives went through the large chest of drawers and pocketed some old watches. From the breakfront, one FBI man took a bundle of family snapshots and another went through some old letters, electric and gas bills. One detective, inspecting the living room closet, came out with a box camera which Julius had won as a prize when he was fourteen years old. Another detective took some books from their shelves to the console table to sort out those of political content.†

It was all happening so fast — so many men crowded into the tiny apartment — that Ethel felt herself almost a bystander. As though in a daze, she followed them about with the children at her heels —

*According to the Record, it was within this five-day period that Ruth Green- glass, accompanied by Rogge, signed a *prepared* statement at the Federal Building. In other words, it was within this precise period that the first of the prosecution-Rogge-Greenglass "deals" was agreed upon. (Record, pp. 742-745.)

†Since the console table had not yet become a "gift from the Russians," and since its underside had not yet been "hollowed out" by the Greenglasses, it remained ignored by the FBI. In a later chapter, we will discuss the prosecution's failure to produce the console table.

from the bedroom into the kitchen — from the kitchen into the living room — when, suddenly, she realized that Julius was no longer there.

She ran out into the hallway, but the whine of the descending elevator told her it was too late. She started back to look up Mr. Bloch's telephone number, then as quickly stopped herself; they might interfere. She tried a neighbor's door. Breathlessly, she asked her neighbor to please go and watch the children while she tele- phoned. . . .

vii

Fortunately, as Emanuel Bloch related the events to this writer, he was at home when the call came from Ethel Rosenberg. He told her he would hurry down to the Federal Building at once, but that the arraignment might not take place for an hour or two. In any case, suppose she called him at his apartment about midnight. In the meantime, to try to calm down — no sense becoming hysterical — it certainly wouldn't help her husband or the children. Ethel prom- ised. . . .

Hanging up, his ear caught the 9 P.M. news broadcast which his wife was listening to in the adjoining room. It was a special an- nouncement from Washington made jointly by Attorney General J. Howard McGrath and FBI Director J. Edgar Hoover:

... Today, the FBI had seized one Julius Rosenberg "as another important link in the Soviet espionage apparatus." According to Mr. Hoover, Rosenberg had recruited his brother-in-law, David Greenglass, to steal "atomic data," and for some years had made him- self "available to Soviet espionage agents" so that he could do "the work he was fated for. . . ."

It was instantly clear to Mr. Bloch that the announcement had been carefully "timed" at the FBI's Washington headquarters and had been released to the wire services to synchronize with the arrest taking place only a few minutes before.

When he arrived at the U. S. Courthouse he saw additional evi- dence of the "timing." Reporters and photographers had been sta- tioned on the steps so that they might photograph Julius' arrival in handcuffs. Usually there would be only a U. S. Commissioner available for such late arraignments. This time, it turned out to be no less than Federal Judge John F. X. McGohey, who swiftly set the bail at \$100,000. It was, of course, a prohibitive one, and therefore tantamount to no bail at all.* Mr. Bloch tried his utmost to point this out, but it was useless.

*Article VIII of the Bill of Rights: "Excessive bail shall not be required. . . ."

Later, in describing the arraignment proceedings to Ethel, he had been hesitant to mention this staggering sum. He could readily imagine the shock of the arrest — trying to quiet the children down, trying to explain to them what they could not possibly understand. Indeed, as she had told him, most of it was beyond her own understanding. Because only last Saturday she had gone to her mother's house to inquire about her brother — how they were treating him in prison and whether it was possible for her to visit him. And Ruth had been there. . . .

At first, Ruth had told her in the strongest terms that they were "not guilty" and that they were going "to fight this case." But then, when Ethel had offered to borrow money from relatives to aid David's defense and had embraced her sister-in-law to kiss her, the latter had "remained rigid" in her arms. Then, after an abrupt goodbye uttered very "coldly," Ruth had suddenly "turned on her heel and left."

It had been at this point, as Mr. Bloch reviewed his reactions, that the thought had struck him that Ruth might very well be the Lady Macbeth in this unfolding drama; that it was she, more than David, who might be responsible for what had happened to Julius. He had had a gnawing suspicion of this when Rogge had hurried to beat the deadline of the final removal hearing on July 12. That was the previous Wednesday. By Saturday (July 16), therefore, when Ruth was telling Ethel that she intended to fight the case, she had already concluded the "deal" to sacrifice Julius.

Little wonder then that Ethel's impulse to help had met with that icy rigidity. In his mind's eye, Mr. Bloch had seen the entire tragedy of Macbeth dominated by his ruthless wife: How Lady Macbeth conceived the brutal plot against Duncan's life; how she forced her vacillating husband to carry it out; and how, when he was unable to complete the bloody task, she herself finished the awful work by smearing the victim's blood on the sleeping grooms and placing the murder daggers beside them.

That night he had found it difficult to sleep. The more he had thought of Ruth's cold-blooded deception, the more convinced he had become that it was she who had encouraged David to shift the blame to Julius.

There was one element, however, that had never entered his mind that night: That this drama of one family pitted against another would inevitably take on the classic pattern of Greek tragedy, and that Ethel, too, would soon be forced into the role of a protagonist together with her husband.

6 | "David Greenglass
Youngest Brother"

THUS is recorded the first lying subterfuge in man's written history, a lie made even the name of Cain has been a curse, natural crime but also because of the sign of regret nor any appeal for forgiveness is cursed by the Lord. Only one concern extent of his punishment. He bemoans bear . . . every one that findeth me shall

And while their sins differ somewhat of jealous rage whereas Greenglass killed all too alike in their total absence of conscience the die was cast, not only displayed no actually sat on the witness stand "a sn

And thereafter, for more than eight years until that final night when his sister's chair, he held fast to his rationale: "I can take the easy way, she can 'cooperate' she chooses to die, then the responsibility 'Am I my brother's keeper?'"

Did Greenglass realize during the process he would be required to include his sister extremely doubtful. It was entirely unnecessary have taken the risk of alarming him with. Obviously, it hoped that, with Julius come to accept the course of cooperation

*From the Petition of Ethel Rosenberg for Julius.
†*Ibid.*, p. 20.

Certainly it knew the serious economic predicament Ethel was left in. From a letter she sent Julius shortly after his arrest, we obtain a glimpse of the tremendous burden suddenly thrust on her.

It is written at one o'clock in the morning, after she has finished the laundry and "hanging the clothes." Her eyes "ache for lack of sleep," but she is overwhelmed by the number of unpaid bills accumulating in Julius' shop. She writes desperately, "How long can I wait to pay bills?"

Such indirect pressures were precisely what the prosecution had counted on to bring the Rosenbergs to heel. Not only was Ethel faced with her everyday housework — cooking, cleaning, washing, shopping and caring for two small children — but she was suddenly forced to take over the operation of a machine shop. With Julius' arrest, creditors lost no time in demanding immediate payments. Hence, in addition to the abrupt cutting off of all income, there was the problem of staving off total economic disaster.

Furthermore there was the mental and emotional strain in a woman whose brother and husband were both behind bars, with the one accusing the other of a crime punishable by death. And finally, there was the traumatic shock upon the children and the tremendous problem of how to cope with it. The three-year-old Robby was reliving the nightmare of the arrest every night with fits of trembling and whimpering. The seven-year-old Michael gave Ethel no rest with his insistent demands: Why couldn't he be taken along to visit his father, or why couldn't he talk to him by phone? Why had Uncle David been arrested . . . ? Why had the detectives torn apart the house . . . ?

Nor was there such aid or sympathy as one might normally expect from neighbors, friends and relatives. Following the sensational headlines, Ethel was virtually cut off from all human contact in this respect. The very immensity of the charge produced a paralyzing fear in everyone who had ever known the Rosenbergs. No one dared to risk the impulse of even telephoning Ethel. They, too, might be suspected of involvement in the "spy ring." And in turn Ethel, realizing that her phone was surely tapped, refrained from calling friends or even relatives for fear that such calls might visit upon them an equal fate.*

*FBI detectives had by this time visited some of Ethel's former high-school chums. One such friend still had some group snapshots the girls had taken together while out hiking. Learning of FBI visits to other friends of the Rosenbergs, she had hurriedly burned them. Another friend had kept some autographed programs in her "memory book" of Ethel's singing appearances with "Major" Bowes' amateur competitions, but in this "time of panic," had thought it best not to have such "dangerous" things around. (Virginia Gardner, *op. cit.*)

To be sure, there was her mother (Tessie Greenglass), but when Ethel had called upon her for help, not once had she responded; not even to mind the children. It was her mother's stubborn opinion that David was in trouble mostly because of Julius' and Ethel's "Communitistic" ideas.

Thus, added to Ethel's burden of grief was the agonizing knowledge that she could not even turn to her own mother for simple comforting. What was particularly galling was the extent of the rapport between her mother and Ruth, now her avowed mortal enemy.

In subsequent talks with Mr. Bloch this theme became one that quite obsessed her. Despite the difference in age between Ruth and Tessie, Ethel saw their basic personalities as astonishingly similar. Both women were egocentric; both had become calloused by poverty and suffering. The struggle for existence on the East Side frequently dehumanized people. While some emerged unscathed, others became warped. Some became sensitive and compassionate, and these would ask why there need be such poverty and suffering in a land of plenty. Others became embittered and selfish and let their suffering harden into a self-protective armor.

During these conversations with her attorney Ethel appeared to be equally concerned with the psychological reasons for her brother's apparent hatred of Julius. David had been about fourteen when she had met Julius and she remembered that he had not taken too well to her first boy friend. She remembered how glumly he had reacted to Julius' courtship and the testy remarks he had often made about the typing she did for him in the kitchen and their staying up so late. . . .

ii

It was a very cold winter the year Ethel Greenglass met Julius Rosenberg and the two would sit close to the kitchen stove to keep warm. With his long legs outstretched beneath the stove, Julius would write out his college reports while Ethel typed them out neatly. One winter, she told him, it had been so cold in her house that when her girl friends dropped over they would thaw out their feet by placing them directly inside the oven.*

At first she had been almost ashamed to ask him over because of the neighborhood. In the evenings when he walked her home the street was jammed with weary peddlers returning their pushcarts to

**Op. cit.*; many of the following details regarding Ethel's girlhood were compiled by Virginia Gardner in interviews with former friends.

the stables just across from her father's shop. In summer there was an awful stench from the discarded, rotting fruits and vegetables. Nearby, too, were the live chicken markets where the truckers unloaded the crates of squawking fowl. Then there was the cluttered junk in her father's sewing-machine repair shop at the very entrance to the house.

She remembered that her father had taken to Julius right from the beginning. She had always adored her father, particularly for his good nature and high spirits which seemed to find expression even in his merry "high red cheeks." No matter how busy he was, he never seemed to mind the kids running in and out to ask for a penny to buy candy or when they played hide-and-seek amongst the junk.* Unfortunately her mother was totally lacking in such warmth, not only to her girl friends but to her one and only boy friend.

The rooms the Greenglass family lived in behind the shop were almost as cheerless as her mother's usual grunt of welcome to her friends. First there was the dark, windowless bedroom in which her parents slept, then came the kitchen where the stove was and behind this was the unheated dining room which faced the usual back alley. Upstairs, there were the three bedrooms for Ethel and her brothers. Ethel's faced the street; her brothers Sam, Bernie and David shared the two back rooms.

Sometimes up in her room Ethel would play the piano and sing for Julius songs like "Ciribiribin," and also show proudly that she could hit high C.† But when she returned from the hallway below after kissing Julius good night she would meet with David's dark looks. Not realizing that her teen-aged brother might be secretly jealous, she would laughingly apologize for playing the piano so late.

It had never occurred to her that David might have resented those good-night kisses and whatever else he imagined took place between the young lovers. Later, she wondered whether it was this repressed rivalry or guilt that was the underlying cause for all those difficult years in Julius' and David's partnership.‡ It would not be surprising,

*Ethel's father, Barnet Greenglass, died in 1948.

†Despite her mother's opposition, Ethel had saved up enough to buy out of her overtime pay an old piano on which to practice her singing lessons. During this period, she worked for the National New York Packing & Shipping Company. Her voice had genuine quality, and while still in her teens she became the youngest member of the Schola Cantorum at the Metropolitan. She also attended classes in drama and modern dancing at the famous Henry Street Settlement House. (Record, pp. 1305-1306.)

‡According to David's testimony at the trial, there were "quarrels of every type and kind... arguments over personality... over money... over the way the shop was run... over the way the 'outside was run.'" (Record, p. 664.)

since she had been the only girl among them. From the beginning of herself and David there had been a special relationship. She always mothered him as her "baby brother."

As for the relations between her mother and David, she remembered that her mother had always dominated him. She explained the unusual rapport between them, especially since David's arrest. They had been close when her mother had helped finance the shop. When she gave David the money to invest in the shop, the relationship had become quite different. Ruth, having become physically hurt by David's loss of the restored balance of power. Now the older brother had to share and protect her son's interests.

iii

Exactly two weeks after Julius' arrest, he appeared before the Grand Jury on the 7th of July, 1951, to the Rosenbergs and Mr. Bloch that it was unlikely that they would testify against her own husband. Therefore, the intention was to trap her into making some disclosure about David.

The Grand Jury hearing took place in the Courtroom at Foley Square. The questioning was conducted by the assistant to Saypol.* It was all very polite and inquired point-blank:

"Did you ever sign a Communist Party petition for elective office?"

The question referred to a simple act of citizenship. Rosenberg had performed nine years earlier. American citizens had signed this nominating petition. New York City Councilman Peter Caccese's reply was straightforward:

"I did sign a Communist Party petition."

Her answer, of course, in the viewpoint of the prosecution, thrust her immediately into an unrepentant membership in an international conspiracy.† Thus she was damned.

*The excerpts here concerning Ethel's Grand Jury testimony and those portions brought up by the prosecution at the trial. (Record, pp. 1344-1398.)

three boys; and between attachment because she had

and David, she remembered him. And perhaps this and Tessie Greenglass, even rather close before, partnership by lending however, since his arrest. It seemed as though she was conscious of the man could more equita-

ethel was subpoenaed to of August. It was clear as meant to intimidate execution expected her to they reasoned, the in-aging statement against

e Federal Building on by Myles J. Lane, chief it first, but then Lane

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itizenship which Ethel in 1941. Some 50,000 g petition to put the e on the ballot. Her

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the Grand Jury, made of the Communist "in- d if she answered and

' appearances are from ing her cross-examina-

damned if she didn't. For, had she refused to answer on constitutional grounds, she would have been equally condemned as a "Fifth Amendment Communist."

And now Lane moved swiftly from the question of political heresy to an invitation to legal suicide:

"Did you discuss this case with your brother David Greenglass?"

It was, of course, a trap question. Her brother was under arrest; so was her husband. Both were incriminated. If she replied truthfully that she had not discussed the case with David, because she had never known anything about his so-called espionage, there was the danger of prosecution on perjury charges. There was only one refuge — to exercise her privilege of the Fifth Amendment. But this suited Lane perfectly as he made the following accusations, couched in question form:

"Do you know whether your husband is or was in any way affiliated with the Soviet Union?"

"Did you ever hear David Greenglass discuss his work in connection with the atom bomb and nuclear fission?"

"Have you ever seen any sketches that he made while he was working at Los Alamos?"

"Were you present when he gave information to your husband ... obtained from Los Alamos?"

"Have you ever met Harry Gold?"*

"Did you ever discuss with Ruth Greenglass the work which her husband was doing at Los Alamos during the war?"

"Did you ever hear your husband, Julius, discuss with Ruth Greenglass the work which her husband, David Greenglass, was doing at Los Alamos during the war?"

Each question was obviously a loaded one, calculated to trap her into an additional charge of perjury if she should yield to the temptation of replying with a defiant "No!"

Finally the dreary routine drew to a close, but not before Lane indulged in another slyly framed question:

"Is there anything else you want to tell us about this entire matter?"

"No."

*The malicious intent of this question is clear from the fact that Gold never claimed to have met the Rosenbergs.

The "anything else," of course, was designed to put her in as bad a light as possible, since it was predicated on the assumption that all the preceding questions were based on facts. And while Ethel and Mr. Bloch were aware of this when she later reported the gist of the hearing, what they did not realize was that her taking of the Fifth Amendment was later to become the "overwhelming" evidence of her guilt at the trial.

iv

It is well to take stock briefly and record here the extent of the war hysteria during the early period of August, 1950, because there can be little doubt that the prosecution relied heavily on the effect it would have on the compliance of the Rosenbergs. On the day before Ethel's questioning, there were these headlines concerning an impending atom-bomb attack:

"ATOM BOMB SHELTERS FOR CITY
AT COST OF \$450,000,000 URGED"

"SEARCH OF BATORY [the Polish motorship] YIELDS NO
[atomic] BOMB — SHIP DETAINED 4 HOURS IN BAY"

On Wednesday, Aug. 9, there were these developments reported by the *New York Times*:

"AUSTIN SAYS SOVIET CAN STOP WAR"

"WALLACE DESERTS PROGRESSIVE PARTY
IN SPLIT ON KOREA"

In addition, there was this unique grouping of headlines reporting President Truman's most recent message to Congress:

"[Truman] WARNS AGAINST HYSTERIA
DEMANDS REGISTRATION OF ANY TRAINED AS SPIES"

It was an interesting technique of "double-think" and one that the Administration was to follow religiously in ensuing years. It was giving assurances that the Democratic Party was not as subject to hysteria as were the Republicans, but at the same time that it was purging itself. And just as former Vice President Wallace had hastened to desert the liberal movement, so did many others hasten to prove themselves "clean" by putting themselves on record in a full-page advertisement in the *New York Times* of August 10:

"... From now on, let us make no mistake about it: the war is on, the chips are down. Those among us who defend Russia or

"DAVID GREENGLASS IS MY SON

When she was excused she wondered why.
Even the Grand Jury members appeared
It is safe to venture that none of them
only as a decoy.

It was exactly 1:15 P.M. when Ethel
Suddenly there were two men at her side
and said, "You'll have to come with us -
had no warrant; they said they didn't
her right back into the same building;
the 29th floor. (Later she commented
the ceremonial hypocrisy. Why hadn't
she came out of the Grand Jury room?
it any less so to arrest her without a warrant
under the false pretense of a subpoena?)

While she waited for the United States Marshal from lunch she was permitted to call him. Bloch was out of town his secretary called his father, Alexander Bloch. It was the first time a 17-year-old lawyer whom she later came to love. She was also permitted to telephone her mother who was keeping her. After warning her neighbors in front of the boys, Ethel asked to speak to Alexander. He stated she had no idea how to break the news. He had no sense lying; he would hear it on the radio. She had to keep her voice even and relaxed:

From the prosecution's point of view it must have seemed that it required only one more blow to shatter completely the Rosenbergs' morale. In order to make the blow a telling one, it proceeded swiftly. On the morning of her second appearance before the Grand Jury Ethel was again faced with the task of finding a neighbor to take care of the children should the hearing run over into the afternoon when the boys would be back from school. Fortunately, there was a woman in the same building whose children were nearly the same ages as Robby and Michael. She volunteered to mind them, stating quite simply, "I'm not such a hero — but if I have to be afraid of my own shadow, then what kind of America will I give my kids?"

It was as far as she got, for the long
There was a "long agonized scream" for
three years, whether tossing in restless sleep;
House of Detention or in the death cell;
berg was to hear again and again that long
first-born.

The arraignment took place at 4 o'clock before Commissioner Edward W. McDonald. At the complaint Ethel heard that she was:

"... accused of assisting her husband in recruiting her brother, David Greer, to the Soviet Union."*

*New York *Times*, Aug. 12, 1950.

hey had called her at all. be puzzled, she recalled. lized they had been used ft the Federal Building. One of them took her arm ou're under arrest." They uire one. Then they took d up to the FBI suite on rly to her attorney about simply arrested her when d if that was illegal, was t after bringing her there

Commissioner to return attorney. Since Emanuel kly got in touch with his me Ethel met the seventy- ove as dearly as a father. ighbor to explain what bor not to show alarm in chael. In her half-numbed ws to the boy. There was io soon enough. She tried

ppened to Daddy? Well, antly guessed all the rest. tter despair. For the next in her cell in the Women's n Sing Sing, Ethel Rosen- g, despairing scream of her

ck that afternoon before r. Mr. Lane presented the

nd, Julius, 32, and others, nglass, 28, to obtain . . . mic bomb for the Soviet

On the question of bail, Alexander Bloch pointed out that his client had left home that morning "without any intimation that she was going to be apprehended" and he requested that she be paroled "in his custody until Monday so that she could make arrangements for her children." Stating that "he would not entertain any parole suggestion," Commissioner McDonald set Ethel's bail at \$100,000.

A few moments later she was whisked down to a waiting car and driven off to the Greenwich Avenue prison where she was to remain for the next eight months. At the press interview which followed the arraignment Chief Assistant United States Attorney Lane stated:

"There is ample evidence that Mrs. Rosenberg and her husband have been affiliated with Communist activities for a long period of time."

Having thus "placed the accused outside the pale of any presumption of innocence," Mr. Lane added to her burden of guilt with this fantastic charge:

"If the crime with which she is charged had not occurred, perhaps we would not have the present situation in Korea."

It was, of course, "conviction by public opinion" since it placed upon the Rosenbergs not only the onus of robbing the United States of its prized atomic security but the full responsibility for the Korean war. It followed, therefore, that the Rosenbergs were guilty of the indirect murder of every American killed in that war. Indeed, when Judge Kaufman enlarged upon this theme in his sentencing speech, he added to their guilt not only the then current 50,000 casualties of the Korean war but also the *inevitable* deaths of all those millions of Americans whose lives would be destroyed in World War III.

While it is not the intention here to debate power politics, the complete recklessness of this appeal to public passion must be apparent to any person who has followed recent events in Asia.* Suffice it to say that there is not a single recognized expert of foreign affairs, whether in the State Department or in the Pentagon, who has ever endorsed this fantastic charge.†

*See I. F. Stone, *The Hidden History of the Korean War*, Citadel Press, New York, 1952.

†Some two years after Lane's press interview, in the case of Delaney v. U. S. (199, F 2d, 107), the United States Court of Appeals held that deliberate creation of a "hostile atmosphere" could result only in *trial by newspaper* and deprived the defendant of his rights under the Sixth Amendment to the Constitution. It stated specifically that where such material is "fed to the press by prosecuting officials of the Department of Justice" it is not only in violation of "due process of law," but fails to insure "civilized standards of procedure and evidence."

v

"O! what authority and show of truth
Can cunning sin cover itself withal!"
— Much Ado About Nothing

In our anatomy of frame-up we touched upon the prevailing attitudes of officialdom toward people believed to be unrepentant Communists. As Dr. Ralph Barton Perry pointed out, it was such an attitude that justified the zealous churchmen of the Inquisition when they burned tens of thousands of innocent human beings alive "in the name of God and by the bowels of Jesus Christ." Whether it be a Judge Kaufman finding a rationale in the 1950's to impose the death sentences upon the Rosenbergs or a Judge Thayer finding one in the 1920's to justify the executions of Sacco and Vanzetti, never do those in authority question their own motives or see themselves as evil. Always it is their victims who are evil, who must be destroyed. Thus, Saypol castigates Brothman at the latter's trial in November, 1950, three months after Ethel's arrest:

"He was one of the most brilliant students of mathematics alive. He certainly was acquainted with the mathematics of nuclear physics and could figure out the mathematics of any engineering problems. *He did not need to steal or convert secret plans.* He possessed the mathematical knowledge to be of service, *even without resorting to theft or conversion.*" (Emphasis added.)

What did it matter to Saypol that Brothman had not committed any espionage? Wasn't he nevertheless a potential spy? In addition, hadn't he admitted to the 1947 Grand Jury that he had been a member of the Young Communist League while a student at Columbia University? And when Brothman's attorney pleaded with Kaufman not to confuse the case with the current "spy investigations, the atomic bomb revelations, [and] Gold's activities as a spy," there was this impatient interruption:

[Kaufman]: It is merely a question of degree. . . . All leading to the same net result, though.

In short, the prosecuting official does not see himself as a conscienceless villain but on the contrary assumes the role of crusader for the Free World. And it is in the light of this so-called higher morality that we must examine the conduct of the prosecution in its effort to obtain from the Rosenbergs a "confession" that the American Communist Party was nothing more than an espionage branch

of the international Soviet spy network. That this was the entire crux of the Rosenberg case is indicated quite explicitly in the *Columbia Law Review's* reference to it as "the outstanding 'political' trial of this generation."

A few minutes after the sentencing of the Rosenbergs there took place this post-mortem exchange of pietism between Judge Irving Kaufman and O. John Rogge:

The Court: I know it required a great deal of courage [of Greenglass]. . . . It is a most unusual situation.

Mr. Rogge: It is the toughest I have ever been in, Judge.

The Court: A brother testifying against his sister. I suppose that he did a lot of soul-searching and came to the conclusion that [what] he was doing is bigger than his relationship with his sister.*

Such then is the rationale offered by Judge Kaufman to explain the most tormenting question in all this tragedy, a question that has puzzled and horrified millions of people: How did a brother bring himself to send his own sister to the electric chair? Because even if Ethel had been guilty such an act is still beyond all comprehension. The record shows that outside of David's testimony (supported *only* by Ruth) there existed not a single scrap of evidence against her! It was not as if the FBI had dug up a substantial amount of circumstantial evidence against a man's sister and then the man, unable to withstand the overwhelming presentation of it, had finally and reluctantly confessed to her part in the conspiracy. Let it be clearly stated that no such evidence (circumstantial or otherwise) is contained in the record or anywhere else.

In short, we are asked to believe that Greenglass testified against his sister all on his own — voluntarily and gratuitously. And, according to Kaufman, we are asked to accept the sanctimonious explanation that he did it only because he had searched his soul and found within it something bigger than his love for his sister.

And what was that big something that gave him the "courage" to send his sister to her death? According to the implication tendered by Kaufman, it was his reawakened sense of patriotic duty and his feeling of outrage which resulted in his decision that his sister just *had* to pay with her life for her misdeeds!

Another test of the spuriousness of Kaufman's rationale is simply to ask: "If Greenglass really implicated Ethel in the conspiracy on June 15 (which was his testimony), why wasn't she arrested together

with Julius on July 17?" Surely this one-mo enough time to obtain from the Greenglass the record shows that Ruth Greenglass' sign was the *only one* she gave, and this after p his sentencing speech, Judge Kaufman de fledged partner in this crime." Why then, arrested until almost two months after he exposed her? We have seen that Ethel Rose dangerous a criminal that when she was ai permitted to make arrangements for her she was placed under the same bail of \$10 may ask, if she was so dangerous on Aug. 11 geros on July 17?

Since Saypol has refrained from attribut arrest to FBI surveillance there is only or Greenglass' testimony was false; it was "tail ale as Judge Kaufman used so that the facts would be concealed from the jury. Stated as a matter of the prosecution pursuing its Having succeeded in pressuring David into had him trapped sufficiently by his series ol to involve Ethel.*

When we search for the key to this self- the first indictment, dated Aug. 17, 1950. A batim in the record, it is significant to study New York Times on Aug. 18, 1950:

"Named as co-conspirators, but *not* as Gold, David Greenglass, and his w

"Mr. Irving H. Saypol said, 'The she not be prosecuted.'† Thus, it was i operative in the investigation and migl ness." (Emphasis added.)

"Named as co-conspirators but not as del mean exactly? Simply that as a reward for David and Ruth had been promised they cerning Ruth's immunity, as the New York there was little difficulty. With David's, he

*"...I signed statements, plenty of statemen Greenglass. Record, p. 602. See also p. 601: seven...."

†In the record, Saypol states that it was he Ruth "not be prosecuted." (Record, pp. 1623 1

*Record, p. 1618.

period gave the FBI full story. In fact, the indictment of mid-July and conferences. In Ethel as a "full-repeat," was she not her had allegedly was considered so she was not even children and that Julius. Hence, one is not equally dan-

the delay in Ethel's final answer: David to fit such a rational Greenglass "deal" way, it was simply one-by-one tactics. Regarding Julius, they now attempt to force him

When we find it in the indictment, it is contained verbatim interpretation of the

defendants [were] Harry

had directed that and that she was co-Government witness.

s." What does this "cooperation" both go scot-free! Conhas just shown us, Sappol had to be

testimony of David and say about six or

who directed that

more discreet, and it is significant that the press was not told what his fate was to be. But, as we shall soon see, the deal had been made that if David would plead guilty to the Santa Fe indictment in New York he would receive his "pat on the back" and a "suspended sentence." It is a measure of the utter naïveté of the Greenglasses or of their mistaken confidence in Rogge's promises that they could believe that such a flagrant bargain would not be detected or protested. And of course it was, as soon as Emanuel Bloch found an opportunity to do so in open court.

On Aug. 23, when Ethel and Julius appeared before Judge T. Hoyt Davis to plead "not guilty" to the indictment, Mr. Bloch flatly charged the prosecution with having made a "deal" with the Greenglasses in exchange for their agreement to be Government witnesses. Proof: The Greenglasses had not been indicted as defendants to stand trial despite their admitted crimes as atomic spies.

Before going on to the consequences of this charge let us turn to an inter-office memo written by Mr. R. H. Goldman to O. John Rogge on Aug. 21:

"I spoke to Ruth Greenglass this morning. She is feeling better and so is Dave apparently about the fact that they were not named as defendants. . . . Now she feels the thing is moving smoothly."

Without pausing to comment on this stage of the bargaining—called "soul searching" by Kaufman and "penitence" by Sappol—here is that portion of the memo disclosing David's promised reward:

"... She feels that Dave may not get a *suspended sentence* and is worried about the kind of treatment he will get [in prison]." (Emphasis added.)

Continuing in the same memo Mr. Goldman reports that it was still necessary "to reassure" David, for it seemed that his cell mates had been telling him "horror stories" of what would happen to him in the event he did have to serve a minimum term. Whereupon, Mr. Goldman concludes cheerfully:

"I was able to reassure him through Ruth. . . . I told her that we were happy to say that few of our clients went to jail. . . . I further assured her that Sappol would not permit any mistreatment. But the thing that impressed her most, however, was that I told her you were on friendly terms with Bennett, Director of Prisons."*

*The same James Bennett who ordered the transfer of Sobell to Alcatraz in November, 1952, and who delivered the "confess-or-die" ultimatum to the Rosenbergs on June 2, 1953. (For full memo, see Appendix 4.)

So far so good for the Greenglasses. Everything was moving smoothly for Ruth and reassurances had been given David that if he did not get the suspended sentence and had to serve a nominal term of a year or so not only would Sappol look out for him but so also would O. John Rogge and the Director of Federal Prisons. One can therefore visualize the consternation which must have followed Emanuel Bloch's courtroom exposure of the "deal" two days later. Here is the memo of Aug. 23, as Mr. Goldman hurriedly dispatches an anxious communiqué to his chief, O. John Rogge, that very afternoon:

"Lane, the Assistant U. S. Attorney, called me at 1:00 o'clock and told me something important had come up. . . .

"HJF [Herbert J. Fabricant, Rogge's other associate] and I went over to see Lane at 4:00 o'clock.

"... From the fact that Greenglass was not indicted but merely named as co-conspirator in the New York indictment, it looked to Bloch as if the Government had made a deal with you as Greenglass' attorney. Lane felt that we would now have to consider the question of whether it was OK that Greenglass be indicted here in a superseding indictment and not merely named as a co-conspirator. He would then be a defendant and be tried here in New York but would testify against the others [the Rosenbergs].

"The New Mexico District Attorney, acting on instructions from the Attorney General's office, with whom Lane had been in touch, would agree to such a procedure. Lane pointed out that he thought it was obviously advantageous for both sides for the matter to be decided in New York. HJF told Lane that if there was no hurry we would not want to give a definite commitment but that it would seem that such an arrangement would probably be approved by OJR.

"... But Lane said something should be done on this before September 6th and reiterated again it was to our advantage not to take any chance of getting before a judge in New Mexico, clearly indicating that he felt that in a small state like New Mexico they might well prefer to give a good stiff sentence (of course, he added he did not want to sell us on anything, and so forth).

"There was no indication that Ruth is to be indicted and neither Herb nor I wanted to raise the point. . . .

"... I think it best not to discuss this with Ruth until you return as she might get somewhat excited about it and at any rate we don't have to do anything before September 6th."*

*See Appendix 5.

Such, then, was the sordid trading that went on between the Greenglasses and the prosecution — as revealed almost two years after the trial by the newly discovered evidence of Rogge's file memos. And although these memos were submitted officially to Judge Kaufman at least two weeks before the Rosenbergs' executions he remained adamant that the executions must proceed on schedule.

To sum up, these were the terms of the "deal" made partly before and partly after Ethel's arrest:

1. Ruth Greenglass was not to be indicted.
2. All threats of removal, of trial before a hostile jury and judge and of "a good stiff sentence" in New Mexico were to be definitely withdrawn.
3. David "would now have to consider" becoming a defendant in the Rosenberg trial.

In looking back, there can be little question that the prosecution pursued its fixed policy of coercion with every possible means. On the one hand there was its continuing pressure against the Greenglasses in the event the Rosenbergs held out and the case went to trial. But on the other hand, with Ethel's arrest, there was still the hope that trial could be avoided by Julius consenting to plead guilty. To be sure, the political atmosphere almost guaranteed a conviction; however, anything could happen during trial. It needed only one astute or soft-hearted juror to upset the applecart. It was a risk any veteran prosecutor would seek to avoid if he could attain the same ends without trial.

And Saypol was not only such a veteran prosecutor but he was also the United States Attorney for the most important Federal District in the country, the famous Southern New York.* Both he and his chief assistant, Myles Lane, were ambitious for promotion. As a nationally prominent figure, with the convictions of Alger Hiss and the top eleven Communists to his credit, Saypol realized his tremendous opportunity in this "atom spy" case which all the nation was watching. He knew that this case was to prove what all the other "anti-Communist" cases had not yet established, namely, that the American Communist Party was a spy pool for the Kremlin. And with the coming elections in 1950 and 1952 the Administration was also depending on this case to prove that the Democratic Party had completely purged itself of "Communist coddling."

In essence then, Saypol and Lane were politicians and they were determined to take no chances, whether during trial or before it.

*Previous to his appointment as United States Attorney, Saypol had been Chief Assistant in the same district from 1945 to 1949.

With the arrest of Ethel they knew they had to pressure her and Julius into making a deal. Julius could bargain with one with threats against the other (Ethel, for example: "You want to save his life, I want to save his life.") And if until now Julius had given in, he might be the deciding factor. But even if he did not, it was still a good chance that Julius, under pressure, would finally break and say, "Okay, I'm in."

After this they could decide whether to use Julius' confession in hand, to pressure her anyway on the charge that he was sure to involve others.

The tactics of producing self-entrapment. With the Greenglasses, we know from David to Rogge that, in his initial efforts to cater to the blunder of involving his own wife, since there was a geographical problem in New Mexico in 1944, Julius was in New Mexico for Greenglass to agree to the detail that messenger by Julius during her anniversary. Wary of the danger of this detail is evidence in his statement:

"I made sure to tell the FBI that she had this info from my brother-in-law Julius. I had the idea."

"... Also, I definitely placed my wife in the time of Gold's visit."*

Interviewed the next day by Rogge, it is clear that Greenglass, enraged at her husband's stupid facts about his character:

*Since the Greenglass apartment in Albuquerque, New Mexico, was for him to make this point to the FBI, was certainly quixotic. In their trial testimony they tried to "re-stage" the scene with Ruth present during the trial in order to bear witness. Note: Here is another frame-up: First, there is the full truth that I innocently in November, 1944; then David made a tentative lie; finally, at the trial, it is elaborated (For Greenglass' full memo to Rogge, see Appendix).

ome six or seven months
nfeffion of guilt. They
the other — by asking
Then talk!" (And vice
sign of willingness to
her stranded children,
should hold out there
to bear her sufferings,
ty but my wife is inno-

not to release Ethel or,
l threaten to prosecute
ng her, unless he agreed

are many and varied.
s confidential statement
the FBI, he committed
the "conspiracy." And
olved (when David was
York) it was necessary
uth had been used as a
trip. That David was
y the caution indicated

[uth] was transmitting
and was not her own

out of the room at the

tle wonder that Ruth
, disclosed the follow-

consisted only of one
indeed he did make it,
reenglasses were forced
Gold's visit, obviously
ample of our anatomy
went to Albuquerque
ders it slightly with a
o out-and-out perjury.
(2.)

"As to her husband, she stated that he had a 'tendency to hysteria.' At other times he would become delirious and once when he had the grippe he ran nude through the hallway, shrieking of 'elephants,' 'Lead Pants.'

"She had known him since she was ten years old. *She said that he would say things were so even if they were not.* He talked of suicide as if he were a character in the movies but she didn't think he would do it."* (Emphasis added.)

Nevertheless, despite his hopes that the Rosenbergs would also entrap themselves, Saypol had to reckon with every contingency. In the event of a court battle it was almost essential to have Ethel accused as a spy and appear as a defendant together with her husband. For, if she remained free of all blame, she would also be free to testify in his behalf. And since the Government's case rested almost entirely on the unsupported word of self-confessed accomplices, Ethel's testimony as an innocent woman might very well prove the deciding factor with the jury.

How far-fetched it would appear if the Greenglasses swore they had numerous conspiratorial meetings at the Rosenberg apartment but were forced to admit that Ethel knew nothing about them! How could Julius be proved the big-time spy-master, the recipient of console tables, citations and wrist watches from the Russians, the entertainer of recruits in expensive restaurants and night clubs, the paymaster of dozens of contacts, the accomplished microfilm photographer — with his own wife stoutly testifying that none of this extensive activity could possibly have taken place over a period of years without her knowledge?

In addition, if Ethel remained a free woman, she would also be free to aid her husband's defense in many ways. She could confer with him and his attorney regularly, assisting in all the complex preparations for trial. In the event of conviction she might appeal to friends, relatives and even the public for financial aid in continuing the fight. Indeed, as a spirited and devoted wife, she might even succeed in arousing considerable popular support.

Finally, if Ethel were to remain blameless, there would be lost to the prosecution the tremendous psychological advantage of placing a brother on the stand to accuse his sister. This was, in itself, so powerful a factor that it obviated the necessity for providing corroborative evidence. (And, as the record shows, there was absolutely none with regard to the charges against Ethel.)

*From Rogge's file memo of June 19, 1950 (see Appendix 3). This is the same memo that ends with: "There was a long discussion about JR."

In contrast to all these disadvantages, by arresting Ethel and by keeping her in prison under prohibitive bail, every advantage accrued to the prosecution. Not only would she be isolated generally, but with the husband in one prison and the wife in another their only means of conferring would be through censored letters or whatever alternate visits their attorney might manage. Under such demoralizing conditions and with the trial at least seven months off, it was not unreasonable to expect disintegration of morale.

It should be added that this course of coercion remained a fixed one even after the trial. Following the sentencing of the Rosenbergs, when Ethel was transferred to the death house at Sing Sing alone and placed in what amounted to solitary confinement, it was many weeks before Julius' requests to join her were granted.* During this period there could have been only one possible motive for the Government's maneuver. It was commented upon bitterly by Ethel herself in a letter to her attorney:

"They expect me to break under the strain because I am a woman. They think that in the Death House I will be haunted by images, alone, and without Julius, I'll collapse."

There can be little doubt the prosecution counted on a mother's love for her children as a trump card in their policy of coercion.

vi

*"My dearest Julie,
"By now you must know what has happened to me
and why I am writing from the Women's Prison. . . .
My heart cries aloud for you and for the children.
. . . I must confess my mind does leap ahead to
frightening possibilities for them. . . . Darling, we
mustn't lose each other or the children . . . mustn't
lose our identities. . . ."*†

On the same Saturday of this letter, written on August 12, Alexander Bloch received a telephone call from Ethel's mother. The gist of it was that Robby and Michael had been "dumped" on her the

*Ethel was transferred to Sing Sing on April 11, 1951; Julius on May 15. During this period Mr. Bloch endeavored to contest the premature transfer of Ethel as a "sophisticated cruelty," designed "to break" the Rosenbergs, but the courts upheld the Government. Ethel remained the only prisoner in the Women's Wing of the death house from the day she arrived to the day of her execution — two years, two months and eight days.

†Death House Letters of Ethel and Julius Rosenberg.

afternoon of her daughter's arrest, but that she was too old, too ailing and too poor to care for them. The little one was "grinding his teeth in his sleep" when he was not watching all day "for Mommy to come home," whereas the older one was driving her to despair with his "wild moods." Moreover, the flat had no toilet and, since the kids had to use the one in the hall shared by the other tenants, she was receiving complaints about their "noisiness."*

When the elderly counselor attempted to explain the emergency and assure her that better arrangements and sufficient money would be provided as soon as Julius' business was liquidated, Tessie Greenglass replied: "Well, I'm just warning you right now — if you don't get those brats out of my house, I'm going to dump them at the nearest police station!"

While the harassed attorneys tried to find a purchaser for the shop's remaining assets, Julius and Ethel, informed about the imminent danger of the children being ousted by Tessie Greenglass, sought desperately to find a solution. Since it was impossible to arrange a foster home on such short notice and since Sophie Rosenberg, their paternal grandmother, was ill at the time, the children were placed in the Hebrew Children's Home temporarily. And though numerous efforts were made by the Blochs and Julius' relatives to find a proper foster home, they were unsuccessful. The effect of the institutional life upon the children was quite serious. When their paternal grandmother, Sophie Rosenberg, and Emanuel Bloch visited them, they appeared "nervous, tense . . . and constantly given to tears." Physically, there was a considerable loss of weight and a "general debility."†

*Pilat, *op. cit.*, p. 257.

†When requests were made after the trial to secure the children's release from the Home in order to have them live with Sophie Rosenberg there were unexplained delays. Finally the City Commissioner of Welfare — satisfied that the household set up by the paternal grandmother would provide proper conditions of food, clothing, sufficient room and care for the children — authorized their discharge in July, 1951. They remained with Sophie Rosenberg for one year, until July, 1952, at which time it was decided to locate another home for them for the reasons set forth in a subsequent petition to the Surrogate's Court for "Letters of Guardianship":

"In the early part of 1952, the legal proceedings against the parents, Julius and Ethel Rosenberg, assumed tremendous prominence and importance in the public press and on radio and television. . . . It was known in the neighborhood in which the grandmother's home was located that Michael and Robert were the sons of Julius and Ethel Rosenberg. The antagonisms which this case evoked . . . were reflected in the attitudes of the classmates and playmates of Michael and Robert. Disturbing incidents, such as insults and violence, occurred in school and neighborhood."

The shameful climax of this policy of last moments of the Rosenbergs' lives kept open to the Attorney General's Marshal stood by with instructions to let the Rosenbergs might "break." Thus, at the bitter end, when Ethel was kept to the Government's "idée fixe" that the way to "cooperation" was through what was by way to wring from the wife the cry "Enoch longing for her children."

vii

In the speech of O. John Rogge requesting David Greenglass a "pat on the back" a three-year term (which, with parole, repeated the perjured claims of his client from the outset" stated to the Government happened." It was on the basis of this misconception arose that David Greenglass truthfully and voluntarily.

In this chapter, as well as in the previous proof of this perjury, namely, that his was obtained by a step-by-step process of rewards — of renewed threats and cynical intended to be kept, and of rewards that grapes of Tantalus, when and if he "delivered."

In closing this chapter, it is appropriate was the Government's case against the Rosenbergs we will see that it depended chiefly on the glasses:

"Doubtless, if that testimony were d could not stand."*

Hence, it was simply the word of two other people were spies, and testifying to conversations which no other person had. Throughout the entire trial, as we shall see the Greenglass testimony with regard to produced by the Government.

From the very start of the case Saypol national witnesses. In an effort to find them,

*From the opinion of the Court of Appeals. (1

on was reached in the telephone line was and the United States execution in the event day of her arrest to t, there was the Gov- from the husband his e to his wife; and the as through her excru-

idge Kaufman to give miting his sentence to be only one year), he at they had "almost 'I will tell you what that the widespread ad accused his sister

ne, we have seen the ment to involve Ethel ats, promises and re- ses which were never e held forth like the he goods" at the trial. ask, what *in essence* rgs? At the trial itself, timony of the Green-

arded, the conviction

le declaring that two in conspiratorial con- heard or witnessed. no substantiation of Rosenbergs was ever

ed the need for addi- confidential assistant,

d, p. 1648.)

Roy Cohn, and the FBI combed through a list of all of Julius Rosenberg's former C.C.N.Y. classmates. Particular emphasis was directed toward those who were employed or had been employed by government agencies,* and who had falsely signed non-Communist applications under oath. With such persons subject to perjury prosecution, there was a realistic basis that they could be induced to "cooperate."

One such prospective and compliant witness was found, a former engineer for the Navy's Bureau of Ordnance, named Max Elitcher.† His qualifications were more than satisfactory. When he had worked in Washington he had been a member of a Communist Party branch there. Furthermore, having signed a non-Communist oath for the Navy back in 1947, he was living in a state of fear that he would be arrested any day and jailed for perjury.

At the trial, although Max Elitcher's testimony was *completely* unrelated to and uncorroborative of the Greenglass testimony, its great value to the prosecution was the impression it gave the jury that Julius Rosenberg was the spy-master of a veritable nest of espionage agents. For Elitcher not only included himself as one of Julius' espionage contacts but also included his best friend, Morton Sobell.

And it is with the case of Sobell that we shall now concern ourselves. Just as we have seen how Greenglass was coerced into a series of perjuries involving his sister, so we shall see how Elitcher came to involve his best friend by a similar process after Sobell had refused to bear false witness against the Rosenbergs.

In this regard, it is appropriate to refer to a colloquy between Saypol and Kaufman, which came about as the result of a persistent defense inquiry into the suspicious nature of Elitcher's series of state-

*We have already noted the subsequent attempts by Cohn and McCarthy to broaden the base of the so-called Rosenberg spy network through their groundless accusations made against those hapless former classmates of Rosenberg and Sobell employed at Fort Monmouth.

†Actually, the FBI located still another prospective witness, but he refused to be compliant. This was William Perl. He was also a former C.C.N.Y. classmate of Rosenberg. For reasons of continuity, his case will be discussed in a later chapter. Suffice it to note here that Perl, employed in Cleveland by a Government agency, was mercilessly harried by the FBI to become a prosecution witness against Julius Rosenberg. Subsequently tried on perjury charges, Perl's testimony describes this persecution taking place before and after Julius' arrest:

"...I became subject to a very intensive investigation by the FBI, very frequent interrogations... a sort of attempted domination of my life by the FBI..." (Perl Record, p. 326; available at the U. S. Court-house, Foley Square, New York City.)

ments made to the FBI. During this colloquy, there was this most significant and perhaps unintentional admission made by Saypol:

"Initially, nobody knows whether an individual is a prospective witness or a prospective defendant."*

Applying this to Sobell, we shall see in the next chapters how the prosecution stopped at nothing to make of him an accusing witness against the Rosenbergs — not even at a brutal assault and an illegal act of kidnapping. For, in the course of the FBI's investigations, it had been discovered that Sobell was on a trip in Mexico with his family. This suited the purposes of the prosecution admirably, because, as will be seen, this trip was eventually turned into "flight" and "consciousness of guilt." And as for the kidnapping, which was carried out in clear violation of the laws of the United States and Mexico, this was eventually turned into a "deportation."

*Record, p. 435.

"The Whole Story . . Is Too Incredible"*

Once there was a tyrant king who feared a prophecy which said that in a certain town there would be born a child who would become Governor of his people. When the child was born, its father was warned by an angel to flee to another land. And it was well that he did so, for the king soon commanded that all the new-born children in and near that town be slain. And not until the tyrant had died did the father dare to return with his family to his native land.

Query: Was Joseph's flight into Egypt proof of his "consciousness of guilt" in that he was plotting treason against Herod? Or was the caution of Joseph and Mary in fleeing with their little son caused by their justifiable fear of the tyrant?

THE afternoon of June 22, 1950, was a pleasant sunny day in suburban Long Island and vacation was in the air. Skipping along the street, one little girl of ten joyfully waved good-by to her playmates. She had an odd name, Sydney Sobell.† In her house her mother, Helen, was folding away things to take along for her year-old baby brother, Mark. Upstairs her father, Morton Sobell, was packing their suitcases for their vacation trip to Mexico.

Since 1948 the Sobells had been dreaming of and planning a vacation in Mexico,‡ but for some time now it had grown to something more. As an electronics engineer, whose main aspiration was to get into "more basic research or an academic position," Sobell had enjoyed a taste of it while teaching a "graduate course" at the Brook-

*"The whole story of what has happened to us is too incredible." (From a letter written by Morton Sobell from Alcatraz in September, 1953.)

†The daughter of Helen Sobell by a previous marriage.

‡See photostat in Appendix 11 of letter from Pan-American Airways, responding to an inquiry dated May 24, 1948, by Sobell concerning excursion fares to Mexico City.

lyn Polytechnic Institute.* However, an held little promise in view of his partici never made any secret about his "left of college. While he was a native American, l to be Russian-born and this had almost Bill of Attainder in the eyes of FBI Direct

One could read daily about the dismissa because of their refusal to knuckle down Activities Committee. Even "distinguish "harassed and persecuted for no more than ciations." Just that day he had read t h University of California in Los Angeles h members of the university's staff for failin ration that they were not members of the C

Some of his friends had already been visi had been the usual polite inquiries abou Did they happen to vote for Roosevelt, or papers did they read — any magazines like Republic? What sort of people did they assc zations did they belong to — what had been "Nazi-Soviet Pact" or the "Second Front"?

One had to be blind not to recognize tl storm. To some, the lessons of the recent p; but in Sobell's mind they had become deej bered all too well what Huey Long had cy

"If Fascism ever comes to the United Americanism."

And here it was — "political intim on sitions, purges and political prosecutions," of "Americanism."‡ Certainly the Cold W;

*These excerpts and those to follow are from the filed October 8, 1953, before U. S. Court of Ap †"More than half of the top American Reds h or her satellites. . . . Communism's great appea born and their offspring. . . ." (See article by J. November, 1952.)

‡Despite every honor bestowed on him in the American citizenship, the Nobel Prize winner take up residence abroad. He stated publicly: of German birth, I am painfully familiar wit Spiritual intolerance, political inquisitions, and and all this in the name of an alleged 'state of e it started in Germany. What followed was fa fascism was war."

ademic career these days
r background. He had
nter activities" back in
h his parents happened
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Hoover.†

of university professors
efore the Un-American
scientists" were being
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d by FBI agents. There
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idavit of Morton Sobell,
als. (Appendix 14.)
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there were rumors of concentration camps to be filled with "Reds" in the event of war.* In the schools, children were being dog-tagged and terrorized with air-raid drills against atom bomb attacks. If one talked of the desirability of peace one was looked upon with immediate suspicion for "following the Communist line." Snooping and informing were becoming a patriotic duty. Everywhere was tension, insecurity and distrust.

(The atmosphere was aptly described later by Justice William O. Douglas, as "The Black Silence of Fear," in an article written for the *New York Times* of February 13, 1952: "Fear has mounted — fear of losing one's job, fear of being investigated, fear of being pilloried. This fear has . . . driven many thoughtful people to despair.")

And so, in a very real sense, it appeared to Sobell that his trip would be a welcome respite from this "oppressive atmosphere" where every passing day brought some new "danger to [one's] future."

In any event, by summer's end, if there were any signs of a return to sanity, they could always come back. They were not cutting any real ties, they were not selling the house, car or furniture; they were just locking the windows and storing the car in the garage until their return. In the meantime, they would see how things would turn out, not only here at home but in Mexico. For it was also possible that he might find a position there in his particular field of engineering. In fact, in electronics, Mexico "was really in its pioneer days" and might very well offer him "a real challenge and opportunity." He had had this in mind when he notified his employer at the Reeves Instrument Company of his plans to find another position. Actually, he had wanted to leave the company almost a year previously, but he had been engaged in designing and building a highly complicated "radar computer," and had not wanted to desert in mid-stream. Now that it was completed, however, he felt free to go.†

*See Internal Security Act of 1950 (McCarran Act). (See also article by Charles R. Allen in the *New Statesman and Nation*, Sept. 13, 1952: "According to James V. Bennett, Director of the Bureau of Prisons, '\$775,000 has already been expended for the activation and rehabilitation of six camps.' . . . All estimates indicate they will hold many more than the 50,000 or 60,000 Communists that J. Edgar Hoover regularly estimates there are in the U. S.")

†Sobell left on June 22, 1950, the day after his daughter's school term ended. In confirmation, see photostat of letter from "The Queens School" stating that Sydney (Sobell's) school term ended June 21, 1950. (Appendix 15.)

ii

After picking up his tourist visas at the Mexican Consulate, Sobell went to the American Airlines office to pay for his round-trip tickets.* He was advised to register the serial numbers of his home movie camera and Leica in order to avoid possible duty charges on the return trip. When, therefore, the plane stopped at Dallas, he had them "checked and identified" at the U. S. Customs there.†

From the moment the Sobells arrived in Mexico City they welcomed the reduced tempo and leisurely living. Here were people of charm, dignity and courtesy. Here was a most conservative government, yet "left" artists like Diego Rivera and Siqueros were not only commissioned to paint their murals in the Palace of Fine Arts, but were fairly idolized by the entire nation. Here was no color line drawn between the whitest descendant of Cortez or the darkest "vaquero" riding down from the mountains wrapped in the same poncho as his Aztec ancestors. Here was no threat of war; in fact, an utter abhorrence of anything connected with it. It was the third largest populated city in the Western Hemisphere, yet there was so little nervous tension that the city could boast only one psychoanalyst and he catered primarily to Americans.

Looking for a suitable apartment, Sobell finally found one on the Calle Octava de Cordoba at a reasonable rental. On the way back to tell his wife about it, he passed a newsstand where one could buy air editions of the *New York Times*. The large black headlines of June 25 announced:

"WAR IS DECLARED BY NORTH KOREA

"Communist Regime. . . . Uses Tanks, Broadcasts Hostilities"

In the days that followed the headlines grew increasingly alarming. With the full commitment of MacArthur's armed forces, the threat of an atomic Armageddon appeared close at hand. Now J. Edgar Hoover was going to have a field day indeed! For, if the war spread to China and Russia, there was the "5th Column" at home to be rounded up at once. And not only the handful of Communists, but

*See Appendix 12 for photostats of American Airlines tickets issued to Morton Sobell, and roster of passengers listing Morton Sobell, Mark Sobell, Sydney Sobell and Helen L. Sobell as "Americana turistas" — dated June 22, 1950, and "certified to be a true copy."

†The receipt proving this registration (showing intent to return) was delivered to Sobell by the FBI after a lapse of four years. (See photostat in Appendix 13.)

hundreds of thousands whom the FBI had in their files as "fellow-travelers," "sympathizers," "security risks," and, of course, "alien suspects." Whether there was justification or not, Sobell anticipated a repetition of the notorious Palmer Raids.*

With all the newspapers, however, there seemed to be no real news at all, only the frightening headlines. There was a feeling of complete isolation and a need for news from home. What were people saying? Were they completely taken in by the propaganda? Did it look like World War III was coming?

Another thing — they hadn't as yet written home to give their mailing address. Their folks would be worried. They had meant to write on arrival but had put it off, hoping to include a permanent address.

Since his hunches about the possibility of war had been proved so right, why not continue to be prudent? Perhaps, just because he had left for Mexico, he would now be put on top of the list of "Reds" to be rounded up. Perhaps they had begun censorship of international mail. If so, the family Sobell and all their mail would surely be watched.†

Why not rather write to a good friend and enclose the family's letters to be mailed in New York? Just before leaving he had told an old friend named Bill Danziger that he was flying down to Mexico for his vacation. He had promised Bill to write in any case. He dashed off a brief note and asked him to be good enough to mail the family letters. For the sender's name, he decided to use a pseudonym:

*It was Hoover who master-minded these raids in 1919 and 1920, when thousands were arrested in a single night. Not only aliens and radicals were seized in the nation-wide "dragnet," but anyone who had been in the vicinity accidentally. The *New York Times* of Nov. 8, 1919, reported:

"A number . . . were badly beaten by the police . . . their heads wrapped in bandages testifying to the rough manner in which they had been handled."

The period was later described in the *New Republic* as follows:

"At that dark period, Hoover compiled a list of half a million persons suspected as dangerous because of the 'ultra-radicalism' of their economic or political beliefs or activities. The equivalent of one person out of every 60 families in the United States was on the list. Hoover beat out Heinrich Himmler by 14 years."

†Sobell's fears in this respect were not only for himself, but for his family. Only a year or so before, his father had been investigated in connection with a loyalty oath. One uncle was the manager of an inter-racial, non-sectarian children's camp; another had once visited the Soviet Union.

"Morty Sowell." He thought of it impulsively. For with the simple change of the "b" was getting along so well.

In view of the fact that the prosecution in Sobell's use of such pseudonyms as cumulative this is an appropriate place to make the conceivable that such would be the conduct of a following *precise, prearranged instructions* as v. In the first place, it is not the practice of initials. Furthermore, would it not have occurred that if the FBI was going to intercept his as dangerous to use the name "Morty Sowell" name, Morty Sobell? Moreover, if Sobell were trying desperately to conceal his whereabouts to put "Morty Sowell" and his correct address envelope at all? And finally, it should be stated stay in Mexico, Sobell resided there under his made the slightest attempt to conceal it. This by the prosecution.*

It must be perfectly apparent that Sobell's typical of many frightened Americans in the considered themselves political refugees and tempts or inquiries concerning political asylum chapter this aspect of Sobell's thinking will. However, while dealing with the subject of additional indiscretion:

Some days after moving into the new apartment a second letter containing enclosures to the new address. This time he used another pseudonym: "Morty Levitov," his wife's maiden name.

Again, would it not occur to a highly intelligent man who was quite capable of ascertaining that Helen Levitov? And again, why was it necessary to leave the sender's name on the outside of the envelope? Would a spy fleeing for his life be so overly concerned about his relatives a temporary address?

*In Appendix 16, see rent receipts for Sobell's apartment for 153 Calle de Cordoba. In Appendix 17, see the letter from the FBI to Sobell's attorney, showing these rent receipts.

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iii

*"Call no man a foe, but never love a stranger...
Go forth with crowds; in loneliness is danger."*
— Stella Benson, "To the Unborn"

A few days after the Sobells had moved into their apartment their neighbor from the apartment opposite dropped in to introduce himself. His name was Manuel Giner de los Rios and he owned an interior decorating shop. He took the occasion to invite them over for a Saint's Day party. When they demurred, he assured them that he found Señor y Señora Sobell very "simpatico" and repeated the favorite welcome of the country: "Mi casa es su casa." (My house is your house.)

Learning that Rios was a refugee from Franco Spain, Sobell warmed up to him and a few days later invited Rios to dinner. The conversation drifted to the world situation and the blindness of the West in permitting Hitler and Mussolini to destroy the Spanish Republic. Was that tragic lesson completely forgotten? What could have been the "graveyard of fascism" had led to World War II. Was it Korea now that was to lead to World War III? In that event, would Mexico still remain a safe haven for political refugees? What would happen to all those Spanish Loyalists residing here? In fact, what would happen to Americans here who were opposed to the war? Would Mexico continue to extend them the right of asylum? In an all-out conflict, it was hardly likely that the long arm of Washington would not place a heavy hand of control over the whole of Mexico. If so, Rios pointed out, all anti-Fascist refugees might find it necessary to leave the country.

Passing a travel agency a few days later, Sobell noticed a gaily colored poster. It advertised an Italian steamship line with sailings between Vera Cruz and Havana. There was an idea. Instead of returning directly home, why not take in a boat trip on the way back? Wandering in, he inquired "only for the price to Havana and how much it would cost to fly from there back to the United States." The extra cost was not too much more than a direct return trip. However, he made no reservation, still feeling indecisive.

If Sobell were really a Soviet spy, would it be likely that he would be so carefree in his confidences with a perfect stranger like Rios? Would it not occur to him that the FBI had no less than 2,500 agents, informers and informants in Mexico?*

*This was a matter of such common gossip in Mexico City that it would have been known to Sobell's "superiors" arranging his flight, and he would have been duly warned.

Again, if Sobell had received any prearranged instructions from his Soviet superiors, would he be so ignorant of the anomalous situation regarding Spanish refugees residing in Mexico? It was common knowledge that many of them were secret Franco agents planted to spy on the rest for the Falangista. Others, threatened with deportation by the DFS (Direccion Federal de Seguridad — Mexican Secret Police), had become informers. Since many of their contacts were with other anti-Fascist refugees, their reports were cheerfully relayed to the FBI in exchange for generous payments or reciprocal favors. It is not at all unlikely, when one studies Rios' testimony (he was later produced as a prosecution witness), in the light of these facts, that the moment Sobell moved into the apartment opposite, Rios immediately reported the fact to the DFS, and/or that he was promptly instructed to keep Sobell under surveillance. Here is an excerpt from the Mexican newspaper *La Prensa* of Aug. 20, 1950:

"There was not a single moment in which Sobell was not followed by agents of the DFS."

Putting two and two together, one must ask why, if Sobell arrived in Mexico legally as an ordinary American tourist and resided there with his wife and children openly under his own name, would the DFS keep him under such strict surveillance? There can be only one answer: That the FBI and the DFS were in close collaboration from the very beginning, and that the sole purpose of this surveillance was a waiting game to see how many missteps and indiscretions Sobell might make — *not as a spy, but as a panic-stricken political refugee.**

*Since the settlement of America was based on little else than the quest for religious and political asylum (as has been symbolized by the Statue of Liberty and the poem engraved on its pedestal), there is little need to cite historical precedents. A case typical of scores is that of Dr. Joseph Cort, who found a teaching post at the University of Birmingham in England. His wife, also a physician, found work in a Birmingham hospital.

But after three years Dr. Cort, who had been mentioned in a Congressional hearing concerning Communist activities at Yale University, and who had frankly admitted that, as a medical student, he had been a member of the Communist Party for two years, was so hounded by the State Department that Labor members of Parliament took up his cause officially.

Here is what they said in the House of Commons after the British Home Secretary had yielded to pressure from Washington and had refused to extend permission to the Corts to continue their residence in Great Britain:

"Dr. Cort was unwilling to return [to the U. S.] because he was afraid of victimization, official and unofficial, on political grounds. . . ."

"Here is a man whose only offense was that he had been a Communist undergraduate. The apparatus of two modern states have been used to hound him out of one country after another and have hounded him behind the Iron Curtain." (See *New York Post*, July 30, 1954.)

The clearest evidence of this is in Sobell's inquiry at the travel agency concerning passage on the Italian steamship line. This was at least *four weeks before* the FBI arranged his kidnapping.

Analyzing this, in the first place, if Sobell was indeed a spy, why would he be so reckless as to overlook the possibility of surveillance and make such open inquiries? In the second place, if by this time Elitcher had exposed Sobell as an important member of the Rosenberg spy ring (which is his testimony), why didn't the FBI order his immediate arrest? The obvious answer will be seen presently when we come to Elitcher's testimony. From it, one can conclude only that the FBI was merely operating on the basis that Sobell — as one of Julius' classmates, as a radar specialist, as an outspoken "leftist," and as one who was unwittingly supplying them with "suspicious" conduct in Mexico — presented splendid material for a prospective witness against the Rosenbergs.

iv

*"In the last five years the use of the word panic in the public press has increased by 1,447 per cent; the use of the word survival has increased by 2,034 per cent."**

The shock came on a Tuesday, when Sobell picked up the thin-papered air edition of the New York Times of July 18:

"FOURTH AMERICAN HELD AS ATOM SPY

"The Federal Bureau of Investigation today arrested Julius Rosenberg, 32 years old, a New Yorker, on charges of spying for Russia. . . ."

"Hand-cuffed"! "\$100,000 bail"! "Led off to the Federal House of Detention"! An "Atom Spy"! It was just too fantastic. It could only be (as Sobell describes his reactions in his affidavit), that Julius was being prosecuted for "political reasons," that the charge "was calculated to intimidate and silence political dissent in the United States," and that anyone who criticized the "Korean war, or otherwise dared to . . . oppose any American policies he disagreed with, would be slapped into jail on one pretext or another."

Painful, too, was the knowledge that one was virtually trapped, for with the denial of passports to those labeled "subversives," the

idea of just waiting helplessly for the inevitable was particularly galling.

And so it was, after five years of feeling "un-American" thoughts and the "un-American activities" after five years of ever-increasing fear, frustration, Morton Sobell became obsessed with the idea was taking over my country!"

Now virtually in a state of panic, the new America or Europe took on more definite shape. He inquired about transportation for himself and the matter with Rios and the advisability of make such inquiries, the latter told him the amount of the fare and the length of the trip.

Here again, according to Rios' testimony, at an extraordinary faith in a perfect stranger. So be incredible in a spy, one can conclude only that of one prospective political refugee who had had more experience.

Exploring the possibility that Rios was a agent provocateur for the DFS, this instance

When Sobell was about to leave for Vera Cruz suggested that if Señor Sobell wished to we would look less suspicious if the letters were that is, care of Rios.

Actually, such a precaution was not only suspicion, but it did not even make good sense. It was taken on the assumption that Helen watched, then by all logic the surveillance trip to Vera Cruz!

Which brings up this final point: Why did about bus lines and fares? Why wouldn't a telephone booth and call the various bus lines the American Express Travel Agency?

v

As one approaches the port of Vera Cruz one passes the snowy peak of Orizaba with 18,225 feet. Then follows the breathtaking the central plateau, 7,000 feet high, down to level. Inside an hour, one abruptly leaves to enter a sweltering, steaming coastal area.

*From an article entitled "Panic!" Collier's, Sept. 21, 1953.

able knock on the door
ended for his "un-American-
ities" of his youth, and
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tion to leave for South
ape, and he decided to
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y bus from Mexico City
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but instead of the teem-

ing harbor which Sobell evidently expected, there was only a sleepy, little waterfront with a couple of rusty freighters and oil tankers rocking lazily at anchor.

The last week of July can be excruciatingly hot in Vera Cruz and the moment Sobell got off the bus he limply dragged himself into the Grand Hotel Diligencias and asked for a room with the largest fan available. As he took up his pen to register, again he yielded to an impulsive choice of name, one of obvious association with the seashore, and signed: "Morris Sand."

During the next days, he made inquiries at the steamship offices concerning sailing dates and fares. Since very few passenger vessels docked at the port, he began asking about possible cabin accommodations on the larger freighters. Even these were rare and infrequent, and he was advised to try at the port of Tampico.

By air Tampico is only a couple of hours, cutting across the Gulf of Mexico. By coastal highway it is a murderous 661 miles and, in a crowded bus over the week end, Sobell realized, it would be like traveling in an oven on wheels. He therefore reserved a plane ticket for the coming Sunday, still using the name "M. Sand."

In the meantime, during his stay in Vera Cruz, Sobell decided to order a pair of tinted sunglasses in an optical shop. It was necessary, however, to pay a deposit and sign his name to the order. In this instance, too, he used the name "M. Sand."

(The clerk of this shop was subsequently flown to New York as a prosecution witness to confirm this incident. It should be pointed out that if Sobell, as a spy, had any real need of sunglasses, he simply could have purchased them or a clipped-on attachment for his glasses, in any drugstore, and thus avoided the necessity of signing a false name to an order which could later be used to convict him.)

Back at the hotel, Sobell decided to write his wife that the whole idea was not only crazy, but also a wild-goose chase. Because, even if he found satisfactory passage, there was still the obstacle of being without passports. As for the romantic idea that a steamship captain could be bribed, what good would this do when they would be asked to show their passports in Italy or France? In any event, he concluded, he would look around in Tampico for a day or two to see what he could find out there.

When he had finished the letter, he addressed the envelope to his trusted neighbor, Rios, in accordance with the latter's suggestion.

And since the enclosure began with "Dear Helen," Rios would know that it was meant for his wife.*

On Sunday, July 30, Sobell flew to Tampico where he checked in at a hotel, using the name "Marvin Salt" — evidently another free association. After a grueling hot three days in Tampico, as useless as his stay in Vera Cruz, Sobell flew directly back to Mexico City on Wednesday, Aug. 2. His plane ticket, however, was reserved in the name of "Morton Salt." (Note: In the record, this is misspelled as "Solt.")

Such then were the five names assumed by Sobell in Mexico: The two names written on the envelopes addressed to Danziger, i.e., "Morty Sowell" and "Morty Levitov," and the three names used during his Vera Cruz-Tampico trip, namely, "Morris Sand," "Marvin Salt," and "Morton Salt."

According to the Government's case, it was the use of these pseudonyms together with Sobell's inquiries for passage that proved he was following a "carefully planned pattern" of instructions and an "elaborate prearranged scheme to flee the country of [his] birth."

When one studies the trial record and the tremendous weight the Government gave to this portion of the case, one cannot help concluding that it played as large a part (or even larger) in his conviction as did the testimony of Max Elitcher.†

It is vital, therefore, to put the Government's charges under the most intensive scrutiny by asking at every point: Was Sobell's conduct consistent with that of a carefully instructed spy following a pre-arranged scheme to escape to the Soviet Union — or was it rather that of a former Communist, who, in a moment of panic, considered seeking political asylum, first in Mexico and then in Europe, paralleling the behavior of all those refugees who fled from countries overrun one by one by Hitler?

Let us test the conduct of Sobell in this three-day period in Tampico. In the first place, it is quite a small town, completely off the

*At the trial it was Rios' testimony that he had been surprised and anxious to receive "a letter which [was] not meant for me" and that he had indicated this concern to Señora Sobell. This was completely false testimony, according to an interview with Mrs. Sobell. It is also significant that when Sobell returned from Vera Cruz, although he continued to live at Calle Cordoba for an additional *three weeks*, Rios never came in to mention the matter in a normal, friendly fashion. Indeed, as the facts disclose, the Sobells never saw him again until he appeared on the witness stand.

†In turn, of course, the emphasis on Sobell's alleged conduct as a fugitive following the instructions of Julius Rosenberg must have played a considerable part in the latter's conviction.

beaten track as far as American tourists are concerned, and especially so in the unseasonably hot months of July and August. Hence any American arriving there at such a time would be most conspicuous.

And yet what does this so-called conspirator do as he goes about the very suspicious business of inquiring for illegal passage? Does he assume one pseudonym and stick to it consistently? No. Not only does he arrive at the Tampico airfield as "M. Sand," and not only does he register at the Hotel Tampico as "Marvin Salt," but, within a day or so, he reserves plane passage at the same airlines office by using still a third name, "Morton Salt." In other words, we are asked to believe in such inane and inept conduct by a highly trained spy: the use of three different names within a period of three days in the same confined locality!

On the other hand, the picture of Sobell as one of many floundering, almost pathetic victims of our hysterical times — "driven . . . to despair" as Justice Douglas describes them — and governed solely by impulses, is not unreasonable. Because if Sobell had had but a fraction of the espionage experience he is credited with, surely it would have occurred to him that, if any FBI or DFS "shadowers" were trailing him in Tampico, they could just as easily do so whether he signed himself "Sand" or "Salt."

And as the prime example of a man playing impulsively, and even with some wry inner amusement, the role of a political refugee, we see that when he chooses his final "nom de guerre" ("war name" — for this must have been exactly the way Sobell thought of himself), he resorts not only to his own given name, but combines it lugubriously into a famous trademark known to millions: MORTON SALT ("When it rains it pours") — or, as he may have ruefully reviewed his seriocomic behavior at the time: "It never rains but it pours!"

Whatever one may think of Sobell's impulses, romanticism and aimless floundering as the result of his accumulated fears and anxieties, there were countless political heretics and dissidents who behaved similarly during this period. And this writer can attest that he saw at first hand in Mexico City numerous such examples, some amusing, some with tragic results. It was during a business trip made only eight months after Sobell's arrest and the following incidents were typical.

In 1950-51, quite a number of writers from Hollywood had taken up residence in Mexico City. Some were seeking opportunities in the Mexican film industry. Some could no longer "take it" in the tension-ridden atmosphere of Hollywood where inquisitions had become the order of the day. In addition, there was the fear of war and

of long-threatened mass arrests. Final Mexico. One of these self-styled political a "fugitive" from the Un-American Activities writer with: "Welcome, fellow Sudeten-

Two other friends of this writer, or other a screen writer, were at this time by the "Committee." When this writer for was living "incognito" at the Hotel he had moved from hotel to hotel, registered that he was quite confused which one (in fact, which one he was then using) business was indulged in with an attitude comic, as well as romantic.

When they learned that this writer had Reforma under his own name, both men Its reputation was such that it was jocular Informer."

Subsequently, this writer had occasion chell" of Mexico City, a Mexican gossip about visiting American celebrities, not but also in his daily meetings with agents he asked this writer, "Have you yet seen hiding out over at the Hotel L.?"

Whereupon, when this writer most dis he meant, he laughingly named them, writer:

"He's using so many phony names, he c more! Funny, isn't it? I'm thinking of u

Some weeks later the harried screen w funds, ruined career and the feeling of t post, decided to "cooperate" and w to Communist statement designed to satisf ever, since he took the Fifth Amendment a "friendly witness." In any event, the much for his wife, for she committed sui

*Some two years later there was the tragic 42-year-old Voice of America engineer [who] a truck's wheels . . . because he had feared he investigating committee."

At the inquest, a suicide letter was "exa Morris, disclosing that the impending com Kaplan to live in a sort of 'mortal fear' o York Times, June 3, 1953.)

as cheaper to live in
gees who had become
Committee greeted this
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ovie director and the
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et the "Walter Win-
umnist who reported
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asked which friends
ng about the screen

t know who he is any
in my column!"

aced with dwindling
driven from pillar to
ington with an anti-
"Committee." How-
was not accepted as
episode proved too
o weeks thereafter.*

† "Raymond Kaplan,
to his death beneath
called before a Senate

y Judge John Henry
interview "caused Mr.
ple summons." (New

During this trip to Mexico this writer also had occasion to meet a distinguished American physicist who had driven down with wife and child from the mid-West in a veritable panic. He was terribly anxious about the threatened mass arrests following the Supreme Court's upholding of the Smith Act. Although he himself was of old American stock, his wife happened to be of Russian birth and both had been outspoken liberals quite left of center. However, after a two-week stay, he confided to this writer he was sick of behaving like a hunted refugee, that America was his country as much as it was McCarthy's, and he was damned if he was going to let anyone push him around any more. He and his family left for home the next day.

vi

On the evening of his return from Tampico, Sobell lighted his pipe after dinner and said to his wife, "Helen, we're going back home." He told her that the wild-goose chase had brought him to his senses, that he must have been "punchy" and that the whole idea of expatriating themselves was "a stupid thing . . . inept and pointless."

They talked it over at length. They had read recently of men like Adrian Scott and Ring Lardner, Jr., two of the "Hollywood Ten," cited for contempt. These men could have remained safely abroad employed by film studios in England and Switzerland, but chose to return to face a term of imprisonment rather than desert the principle they had originally upheld — the freedom of speech and association guaranteed by the First Amendment. The following excerpt is from Sobell's affidavit:

"We realized our ties to home were too strong, that we owed it to everyone to return and help to combat the repressive tendencies from which we had contemplated staying away and 'sitting it out.' . . .

"So my wife and I decided to come back to New York, take up our lives, and join in whatever way we could in resisting the attacks on the liberties of people that were being made in the United States."*

*Regarding the fluctuations of fear and indignation which assailed so many during this period, there is the article in *The Nation* of Dec. 12, 1953, written by the famous author Kay Boyle, as she describes her personal experiences abroad. In France, she heard the warning: "Stay away from America the way the French who could manage it stayed away when fascism was in the saddle here."

During her stay in Germany as a correspondent for the *New Yorker*,

In the next two weeks, after the Sobells had secured the vaccinations required for their return to the United States,* they decided to relax and really make the most of what remained of their stay in Mexico. The rent at the apartment was paid through the month of August anyway, and their daughter did not have to return to school until after Labor Day.

They visited the usual tourist spots in and around Mexico City. There was a visit to the Floating Gardens at Xochimilco, where Indian women in their canoes paddled up to sell them arrays of orchids, and where boatloads of guitarists sang their Mariachi songs. There was the taking of snapshots and movies of Helen and the kids in front of the great Cathedral in the Socolo.† There was the warm mingling with the Sunday crowds at Chapultepec Park and the Palace of Maximilian with its mute evidence of the monarch's efforts to conquer Mexico — his ornately carved royal carriage. And nearby, in sharp contrast, was that of the Indian Juarez — the flimsy, black shay from which he rallied his people to the decisive victory at Querétaro. It was a further inspiration to return, Helen Sobell thought at the time.

friends in Germany told her this "irony of history": "Stay in Germany where you can say and write as you please."

Friends in England cautioned her: "Don't go back to America until the tide has turned. Don't go back to a state of mind that can justify a military treaty with Franco Spain. . . ."

From a Spaniard "in exile in the south of France": "Wait to return until the campaign promises have been kept by your President concerning the Taft-Hartley law and the McCarran Act. The air in America will then be easier to breathe."

And from a young Frenchman: "There are periods in the history of every country when there is no course left to the intelligent citizen but to stay away."

And just as this writer's physicist friend pulled himself together, we find Miss Boyle replying in her article to her European friends: "This is one of the times in history when one must go back and speak out with those of the other America, clearly and loudly enough so that even Europe will hear."

*Although the certificates were taken from the Sobells at the time they were kidnapped, the affidavit of Sobell avers that in Mexico City "there is tangible, documentary proof" of these vaccinations.

†These snapshots and movie films were also taken from the Sobells together with their cameras. If they were given to the prosecution by the FBI together with their vaccination certificates, it is clear why they have remained "missing" to this date, since they would tend to weaken the Government's case that Sobell had behaved as a fugitive and had never intended to return.

In the meantime, back in New York, the prosecution and the FBI had already set the wheels in motion for Sobell's kidnapping. In later pages we will see that Saypol himself made a special trip to Mexico City to arrange with certain accommodating members of the Mexican Secret Police (for a considerable sum, it may be presumed), the timing and details of this illegal seizure.

On August 3, the morning after Sobell's return from Tampico, Saypol had an FBI agent in New York City named Rex I. Shroder swear out a complaint for the arrest of Sobell as a spy and co-conspirator of Julius Rosenberg. This warrant, of course, was kept secret until after Sobell was kidnapped two weeks later. Furthermore, we shall see that not only did it fail to contain any specified overt act of espionage, but that Saypol ordered this warrant at least *two months* before submitting any evidence of Sobell's alleged crime to the Grand Jury.* In other words, we have here the classic example of the condemned police tactic: "Arrest first and get the evidence later."

Hence, the most basic constitutional rights of Sobell were flagrantly violated. Indeed, no more fundamental protection exists in our administration of justice than the safeguard to prevent trumped-up charges. No citizen, according to the law, may be deprived of liberty unless actual evidence has been shown that he has committed a crime.

Therefore, let it be stated clearly that the official records, as we shall presently demonstrate, prove indisputably that the prosecution had not a shred of such evidence against Sobell when it arranged its brutal assault upon him. Indeed, it was precisely because it lacked such evidence that it failed to have him legally arrested in Mexico and officially extradited. In short, it operated on the basis of a two-way method: If it was possible to terrorize Sobell into becoming a witness against the Rosenbergs, it did not need any evidence. And if Sobell refused to "cooperate," there was plenty of time to pressure Max Elitcher into providing enough evidence to obtain an indictment.

Before continuing with the last day of Morton Sobell's life as a free American citizen, a brief comment is in order on his alleged conduct as a carefully instructed spy seeking to save himself by flight. By August 15, the day before his kidnapping, the sensational news of Ethel Rosenberg's arrest certainly would have made him realize that his own days were numbered. Despite this clear warning

*Sobell was not indicted until Oct. 10, 1950.

which, as a "spy," he must have read with morning after Ethel's arrest), not only did apartment where he was known by his own the slightest effort to carry out the "care escape instructions he was supposedly give

One would imagine, for example, that seeing his co-conspirators arrested one b attempt to seek refuge with one of the mar munists in the vast working-class section of he should have changed residence and as Morton Sobell. However, not only did S ment, but all during the eight week on his person no less than eight identifica the name "Morton Sobell"! Among the card, his driver's license, his birth certificat in the New York Academy of Sciences.

Is it conceivable that a spy anxious to dare, or have any reason, to carry such o other hand, an innocent man, seeking poli ment in another country, would take along of identity.*

According to the Government's case, his detailed flight instructions, these incl the Soviet Embassy in Mexico City whic diate assistance in the form of money, for passage abroad. This was allegedly the of escape also given to Sobell. And yet, lance, of which Sobell seemed to be blin finish, we find that there is not g Soviet Embassy in accordance with such

In sum, we are asked to accept the imp pletely indifferent to capture and that I just waited at his apartment like a sittir by the FBI through their local hirelings.

*On Dec. 23, 1954, more than four years after turned these identification cards and six othe Sobell and the children) to Sobell's attorne ter and list of returned items in Appendix 17 of identification cards, bearing initials of R dated "8/18/50 Laredo, Texas."

vii

"... I make this affidavit in the interest of Justice and in furtherance of my rights as an American born [citizen] and brought up in this country.

*"On Wednesday, August 16, 1950, at about 8:00 P.M., we had just finished our dinner in our apartment in Mexico City... and while my wife and I were lingering over our coffee..."**

In the bedroom upstairs their baby was sound asleep and it was especially nice having their coffee by candlelight. A few minutes before, when the electric lights had gone out, Sydney had exclaimed "Here we go again," since it was an almost daily occurrence in Mexico City. Just as Helen was pouring their second cups of coffee, there was a knock on the door. Then suddenly — "three men burst into the room with drawn guns and bodies poised for shooting."

In the candlelight it had every aspect of a grade-B movie; the more so when the leader accused Sobell of being one "Johnny Jones" who "robbed a bank in Acapulco in the sum of \$15,000!"

Although Sobell vehemently denied the charge and demanded to see a warrant, it still had the appearance of a show put on especially for tourists. Then all at once the lights went on and it became all too real. For when Sobell "tried to show them [his] papers, visas, and so forth," they pushed him roughly onto the sofa and held him there. When he "insisted on calling the American Embassy to prove that [he] was no bank robber," but a law-abiding American citizen, they shrugged indifferently.

"One of the men showed a piece of metal in his hand and said they were police. They were dressed in civilian clothes."

A moment or two later a fourth man entered and demanded to see what was in the bedroom upstairs. Helen ran ahead to assure him there was only the baby, but was stopped by her husband's outcry. As she turned, she saw him being dragged to the door. Their daughter was too terrified even to cry. In the hallway Sobell continued to struggle violently, whereupon they half-carried and half-dragged him down the three flights to the street.

*From the affidavit of Sobell presented April 5, 1951, in "Arrest of Judgment." (Record, pp. 1590-1593.) Note: Further details of the kidnapping were related to this writer by Mrs. Sobell.

Hearing his cries, "Help — police!" Helen frantically raced down the staircase to the entrance. There was a knot of gaping passers-by already gathered. A taxi was at the curb. It was raining; a light drizzle. Still struggling, Sobell again cried out "Call the police!" — but one of the men raised his gun and brought down the butt of it on his head. As Helen tried to reach his side, one of the assailants grabbed her arms and tried to pin them behind her back. (Later, she remembered, "I bit his thumb and he howled — then he forced me down on the wet pavement.")

In the meantime, they had dragged Sobell into the taxi, and she could hear him groaning, "I'm hurt — I'm hurt." Then the cab started off. Sobell made another effort to rise, but two of the men beat him "over the head with blackjacks" until he lost consciousness. When he came to, he found himself "stretched horizontally" on the floor of the cab just as it stopped in front of a building.

"... They ordered me to get up; they told me to get into the building, but not to make a scene or they would plug me. . . .

"They sat me down [upstairs] and a slim, tall dark man came over; he looked at me. I asked him what it was all about. He slapped me in the face and told me that they were the ones that were asking questions.

"At that point I discovered that my head was bloody and my shirt bespattered with blood."

In the interim the man with Helen, still holding fast to her, had managed to find another cab to follow the others. She had been wearing a white dress; it was now torn and bedraggled from the rain and the wet sidewalk. When they reached the building, she was hurried along the same corridor where her husband was seated under guard. He was minus his glasses, his sleeve was torn, and his face was badly bruised and swollen. As they hustled her past him into a small room bearing the sign "Homicide," she heard him call to her reassuringly, "Take it easy." However, his guard quickly silenced him with a backhanded slap across the face.

Some time later her ear caught her daughter's voice out in the corridor; the little girl was crying: "You promised to let me see my mother in an hour and it's much more than an hour now." Then she heard her husband calling out, "In any civilized country, they don't keep a mother from her children." Evidently this had some effect, for a moment later they permitted Sydney, carrying little Mark,

his kidnapping, the FBI re-proofs of identity (of Helen). See photostats of FBI letter. See also attached photostats of I. Shroder, FBI detective,

to join her. Fortunately, she had brought along a filled bottle for the baby.*

Following this incident, someone came in to question her concerning their tourist visas. She explained that all her papers were together with their money in the apartment's combination wall safe which they had found convenient to use. If they would let her go home she would gladly show them the visas and proper identification. No, that was not possible. What was the combination of the safe? When she hesitated, she was warned they would break it open. She dictated the combination. It was just about midnight. They had been there a little more than three hours.

In the corridor they offered Sobell something to eat, but he had "no appetite for food." His bloodied head throbbed painfully.

"During all the time [from approximately 8:30 P.M. till 4:00 A.M.] no one questioned me. Some persons who identified themselves as officers to guard me, chatted with me but expressed ignorance of the reason I was there.

"At 4:00 A.M. I was moved into a large four-door Packard and seated in the rear with two armed men, one on each side of me. At that moment the same tall, thin man came to the door and spoke to my guards in English saying to them 'If he makes any trouble, shoot him.'"

It was still quite dark. All Helen could see from the fast-traveling car was that they were driving through the suburbs of the city. Soon they were out on the open highway, going at full speed. Just ahead was another big black sedan containing the four men guarding her husband. In the second car, with her and the children, rode three more. All seemed to be Mexicans. The leader of the expedition in the car ahead answered to the name of "Julio."

Someone had been thoughtful enough to bring an armful of diapers and coats from their apartment. These had been dumped on the back seat. She didn't see any of her other belongings. After an hour or so, when the morning light appeared at her right, she figured they must be traveling north. That was as much as she knew. . . .

*Later Mrs. Sobell learned that the man who had been sent to fetch her daughter and baby from the apartment was someone who seemed to be connected with this particular police headquarters. Seeing him there, she recalled that he had been a frequent visitor at the Rios apartment.

After the first hundred miles or so, the City gradually descends to a sea-level. It is terribly hot, and so it was all the time then they would stop for gas and avoid the larger towns. They had to "the Chief of the Mexican Police" course, turned out to be untrue.

The places they stopped at were outskirts of small adobe villages. They had a can of milk for the baby and a tin of Coca-Cola. Whereas Sydney managed to get a Coca-Cola, Helen felt too nauseated by the dust, the glare and the arid heat.

When she and Sydney wanted to stop, they would consent only to pull up at a small town in the country. There they would try to shield themselves.

And so it went all that day, mile after mile. The heat was almost unbearable. The milk was sour; the bottle was full of yellow liquid. Helen had to wash it, but in Monterrey they let them buy a clean bottle.

When the sun had started to set, they stopped to make a phone call during a stop. Sydney said he was still trying to get to the city at ten o'clock, the same thing happened.

At about 2 o'clock in the morning they stopped in Nuevo Laredo. Just across the border, a man called Julio went into a building for a few minutes. This time he reported to them that he had been told to take them to the border.

"When we reached the bridge between the United States and Mexico, we stopped and the front door opened."

"A man entered with a badge and a United States agent and he remained."

The man was the FBI detective who issued the warrant on August 3. (It is apparent from the "chief" to whom Julio was sent on the trip.) Shroder directed the driver to the border.

the highway north of Mexico route. In mid-summer it can Thursday, August 17. Now and sandwiches, but they seemed to d Sobell they were taking him for further action," but this, of

le fly-infested "cantinas" on the ey would hand Helen a punc- a couple of cheese sandwiches. rs by washing it down with a from the curving highway, the

stop at a rest room, the men side of the road out in the open ind some large cactus plant to

ter mile after mile. They drove er hour. By late afternoon the lk in the punctured can turned urds. They wouldn't stop to let opped at a "Botica" where they

Sobell noticed that Julio tried for gas. Returning to the car, e Chief of Police. Later, at about l, and again at midnight. ng, August 18, they arrived at Grande was Laredo, Texas. The ing and returned in about ten had spoken to "the chief" and ell "across the border" and let

which . . . marks the boundary Mexico, our car was flagged. We ed.

in his hand and stated he was a ned in the car."

Rex Shroder who had obtained arent that he or one of his supe- had been reporting throughout er to stop at the United States

Customs where Sobell's baggage was deposited. In the meantime, the second car had stopped on the Mexican side of the bridge to transfer Helen and the children to another car. Now she saw that her own suitcases had been placed in the trunk compartment at the time of their departure. She arrived at the Customs only a moment or two after Sobell was led into the nearby Immigration Office.

Opening her bags for the Customs inspection, Helen saw that her things had been thrown in helter-skelter. Many articles were missing. She could not find her watch, their cameras, photos or the reels of movie film they had taken of their excursions. A woman, who seemed to be a Government employee, held the baby while Helen straightened things out. One of the FBI men standing nearby muttered, "We hated to do it this way, but it was the only way." Then they told her she was free and that she could do whatever she liked. She asked about her husband, but was told that he had been taken into custody. It was suggested that she check into a hotel with the children, get some sleep and try to see him in the morning. When she mentioned that she had no money, that it had been taken from the apartment safe, they assured her it would be returned in time to pay her bill. A waiting taxi took her to the hotel.

Inside the Immigration Office an inspector named James S. Huggins sat at his desk filling out a card. Flanking Sobell were Shroder and some other FBI men. The card was entitled, "A Manifest, Port of Laredo, Texas." On it were already typed Sobell's name and some pertaining data. When Huggins learned that Sobell's wife and children had also been on the trip, he inserted by pen, "Accompanied by wife, Helen L. Sobell." Inquiring about Sobell's place of birth, he also wrote in by pen: "New York City." Then, looking up, he asked in all seriousness, "Ever been in the United States?"

Sobell replied, "All my life until two months ago."

Now he was directed to sign the card. But as he reached for the pen, Inspector Huggins made a deliberate point of screwing back the cap and clipping it to his pocket. Instead, he handed him a stub of an indelible pencil to sign with.*

After they had handcuffed Sobell and led him off to the Laredo jail, Inspector Huggins chatted a moment with one of the FBI agents. Then, returning to his desk to pick up the "manifest," he took out

*Concerning this item, the trial testimony of Huggins includes: "I am not in the habit of handing people my pen to write with." (Record, p. 1037.)

his pen and carefully wrote on "the bottom of the face of the card" (Sobell's signature was "on the reverse side"), the three words

"DEPORTED FROM MEXICO"*

According to Huggins' own testimony at the trial, he admitted having no basis or authority to make this highly damaging notation and that he *knew* that Sobell had not been deported in any sense of the word, whether officially or otherwise. Nevertheless, Judge Kaufman permitted this "spurious" notation to be admitted into evidence. And since the jury knew nothing whatsoever about the brutal details of the kidnapping, it assumed quite naturally that Sobell had been arrested, extradited and deported from Mexico in complete accordance with the law.† It was not for nothing, therefore, that Judge Kaufman gave Huggins a parting salute of gratitude ("You may go back to Texas"), when the obliging Inspector completed his testimony.

viii

"There was Laredo, the first prison I had ever been aware of, the first prison bars through which Mort had ever looked."†

At about 9 A.M. the telephone rang in her hotel room and Helen Sobell found herself being invited by the FBI detectives, Shroder and Williams, to have breakfast with them down below in the dining room. Her sleep had been fitful. She could still feel the motion of the racing sedan. She hoped that they would finally tell her why all this had been done to them, why her husband had been arrested, and why they had been dragged from their apartment in the night al

*Record, pp. 1031, 1032-1037.

†Since Sobell was advised by his counsel not to testify on the grounds that the Government had failed to prove its case, i.e., that he had in fact conspired to commit espionage, the exposure of the kidnapping became part of the record only during the proceedings of his sentencing; in other words, after the verdict.

The decision of Sobell's counsel may have been a grave error as we review it now with the advantage of hindsight. However, at the time of trial, it was felt that any such sharp attack on the FBI would be resented by the jury as additional evidence of disloyalty and would therefore react unfavorably on their verdict. (See Chapter 25, Section iii footnote for further discussion of the question of Sobell not taking the stand.)

†Excerpt from an article by Helen Sobell, *National Guardian*, Nov. 30, 1953.

driven at such breakneck speed across 800 miles of mountains and deserts.

Down in the dining room, however, when Shroder and Williams joined her table, they ignored her questions. Instead, the latter became quite "chummy," telling her he also had a baby named Mark. Soon after, when she returned to her room, the same Williams appeared at the door, saying that he wanted to have a little talk with her — alone. She nodded to Sydney to step out and the little girl waited in the corridor.

After some circumlocution, Williams told her she "ought to be glad" the way things had turned out. "If you'd have gone to Russia, you'd only end up in the salt mines. But if you work with us . . ." He left the thought hanging meaningfully.

She was about to retort angrily, but dared not lose her temper; her desire to see her husband was much more important than arguing with these noncommittal detectives whose idea of a talk seemed to consist only of unctuous insinuations.

"When can I see my husband?" she asked.

"Don't you understand what I'm saying?"

"Yes, you want something from me, but I don't know what. . . ."

"You'll soon know, Mrs. Sobell," he smiled at her, nodding his head. "You'll be surprised at how much you remember once you work with us a while."

By insistently repeating "Please, I want to see my husband" she managed finally to elicit from him the information that although the visiting hours at the jail were not scheduled until the next day, they had arranged for her to see her husband that morning. Once apprised of this fact, it was not long before she cut the discussion short and was on her way.

In his cell, she found Morton still showing ugly marks of the blows on his head, but he was not nearly as worried about himself as he was furious over the contents of the complaint under which he had been arrested. He now had a copy of it and his voice was edged with bitter irony as he showed it to her.

At last he knew what he was being charged with — nothing less than five certain "conversations" he had had with Julius Rosenberg some three years ago! What conversations? What was criminal about those conversations? Sorry, no details; merely the routine wording of the statute charging him with conspiracy to commit espionage together with "Julius Rosenberg and others . . . to the advantage of a foreign nation," and, to be sure, the five "following overt acts":

"1. In January, 1946, the defendant Sobell had a conversation with Julius Rosenberg at the Southern District of New York.

"THE WHOLE STORY . . . IS T

"2. In June, 1946, the defendant S Julius Rosenberg at the Southern D

"3. In February, 1947, the defend: with Julius Rosenberg at the South

"4. In July, 1947, the defendant S Julius Rosenberg at the Southern D

"5. In May, 1948, the defendant S Julius Rosenberg at the Southern D

On her way back to the hotel later, H ing some headlines, but she was still a list that she failed to hear them or, at to register. Only at the newsstand in th penetrate. She picked up a copy of the the headline read:

"A-SPY NABBED FILE

ix

A few days later Helen Sobell arrived briefly in Virginia to leave her children Looking for a suitable attorney, she for was later joined by an associate, Mr. Har time, the FBI and the prosecution had all presumption of innocence, short of w The following are fair examples of wh immediately after his arrest:

"FLEEING RADAR EXPERT N

"In Washington, FBI Director U. S. in June to avoid arrest the Greenglass. . . ."† (Emphasis added

Here is a shocking example of "co have seen that Greenglass was arrested departure was not "the day after," but : more, if it was true, as the prosecution c Greenglass to flee as early as February Fuchs, it is inconceivable that he woul

*Record, p. 26.

†New York Daily News, Aug. 19, 1950; New

‡Quite apart from the date of departure. † Greenglass' testimony is there the slightest Sobell.

ad a conversation with
f New York.

ell had a conversation
istrict of New York.

ad a conversation with
f New York.

ad a conversation with
of New York."*

ussed a newsboy shout-
ed by that incredible
what she heard failed
lobby did they finally
o *Times* of August 18;

U. S."

w York after stopping
rarily with her family.
r. Edward Kuntz, who
Phillips. In the mean-
everything to destroy
g Sobell without trial.
"fed" to the press im-

AS ATOM SPY

er said Sobell fled the
er the arrest of David

n by newspaper." We
e 16 and that Sobell's
a week later!† Further-
that Rosenberg warned
wing the arrest of Dr.
ave taken similar pre-

st, Aug. 18, 1950.

remains that nowhere in
on between himself and

cautions with Sobell, or that the latter would have tarried almost a full month after he had read of Gold's arrest on May 23.

Finally, the Department of Justice was perfectly aware that Sobell did not behave as a fleeing spy, since we have Saypol's admission that he knew exactly from what airline Sobell had purchased his tickets — and that these tickets were purchased in Sobell's *own name!* Here is Saypol's admission made during Sobell's sentencing:

"... From my own experience in Mexico City where a witness from the airlines told me that this defendant and his wife had cashed in the return portions of their tickets . . ."

In addition, Saypol knew that a spy fleeing for his life does not openly apply for visas at the Mexican Consulate. The very case he presents concerning the alleged stealthy efforts of Rosenberg and Greenglass to prearrange forged passports is in flat contradiction to Sobell's conduct. During his trip to Mexico, Saypol doubtlessly checked Sobell's visas with the Mexican immigration authorities. Yet no evidence whatsoever was produced that the Sobells had entered Mexico in any illegal way.

It is indicative of the prosecution's tactics that at the trial itself it did not dare to advance the fantastic charge that Sobell, accompanied by wife, daughter and infant, had outwitted not only the Customs but every immigration official guarding the airport of Mexico City! However, for the sake of Judge Kaufman's rationale at Sobell's sentencing, and to offset in the record the ignominy of the kidnapping, Saypol falsely charged:

"Counsel ought to know that his client [Sobell] never went into Mexico with a visa."†

And here is the flat contradiction to this charge in the Mexican newspaper *La Prensa* of August 20:

"Morton Sobell arrived in Mexico with a legal passport."

As for the "press-fed" publicity that Sobell was an "atom spy," this, too, was deliberate conviction by newspaper. For not only did the FBI lack any evidence connecting Sobell with atomic espionage, but in all the seven months of preparation before trial they were still unable to produce one scintilla of such evidence — not even enough to satisfy Judge Kaufman, who was forced to acknowledge at Sobell's sentencing:

*Record, p. 1598.

†Record, p. 1598.

"... the evidence in the case did not point to any activity on your part in connection with the atom bomb project."*

And here, in a statement to the *New York Times* of August 19, 1950, is another instance of the prosecution's campaign to convict Sobell by newspaper accusation:

"Mr. Saypol said that Sobell had many dealings with Rosenberg in the conspiracy to supply Russia with atomic secrets."

It is also significant in this discussion of trial by newspaper to see how the press helped the prosecution to create a *fact* out of the deliberate fiction: "Deported From Mexico." Even the usually cautious *New York Times*, of August 19, failed to question it or at least include it within quotations:

"ENGINEER IS SEIZED AT LAREDO AS SPY FOR RUSSIAN RING

"*Deported by Mexico, to Which He Is Believed to Have Gone to Get Passage to Soviet.*"

"The suspect, Morton Sobell . . . was picked up at the border by FBI agents as he was being *deported from Mexico.*" (Emphasis added.)

All of this was featured prominently on the front page, but buried far down in the balance of the story carried over on page 6 was this paragraph revealing the just suspicions of the *Times* reporter:

"Mexican immigration officials in Nuevo Laredo, just across the Rio Grande, said the group that brought Sobell to the border, *did not report to their office.*"

"Ramon Aleman, Assistant Immigration Chief, said this was *unusual.*" (Emphasis added.)

Unusual, indeed! For the court record itself reveals that no official action regarding Sobell's deportation ever took place before any constituted authority in Mexico or in the United States.†

In a later chapter it will be proved by photostats of official documents which this writer recently obtained that the Mexican government was in complete ignorance of the so-called deportation.

*Record, p. 1620.

†It has been contrary to the practice of the United States even to request as a favor that the government of another country should deliver up a fugitive from criminal justice, because under our laws we possess no power to reciprocate such an act of grace." (Secretary of State Buchanan, quoted in *Moore on Extradition*, Par. 34.)

In short, Morton Sobell was *not* deported from Mexico except in the obvious instructions, overt or covert, made to Huggins to write that notation on that card of "Manifest." Why was this done? So that that same damaging card could be brought into court and *admitted into evidence* as proof that Sobell had no intention of returning to the United States voluntarily! Here is the prosecution's own statement on the admissibility of this card:

"Had it not been for that evidence the jury might have inferred that Sobell returned to the United States voluntarily (perhaps from a vacation in Mexico) and that he had always intended to do so."*

Why did Saypol and the FBI arrange this wholesale abduction of Sobell and his family? Why didn't they ask the State Department to instruct the American ambassador in Mexico City to advise Sobell of the charges and request his voluntary return?† The answer is almost elementary. If they had done these things, they would have had no "fugitive," since Sobell's voluntary return was exactly what the prosecution sought to prevent! Had they given him a choice to comply with such a request from the American Embassy, where would they be if the "spy" waived extradition and *voluntarily* returned? Where would be his "consciousness of guilt"? Where would be his "alarm" at the arrest of Greenglass? Where would be the scare headlines of his being "nabbed" while fleeing the country?

There was an even greater risk involved in extradition — the possibility of a damaging rebuff. To secure Sobell's extradition, the Attorney General would have been forced to produce sufficient evidence to satisfy Mexican authorities that a crime in fact had been committed. But on August 3, the date Shroder swore out his complaint, Saypol had no evidence whatsoever to send to the State Department or, for that matter, even to the Grand Jury!‡

In actuality, the only evidence Saypol was in possession of at the time of Sobell's kidnapping was the information received from the FBI that Julius Rosenberg had been his classmate, and that over a period of some two years *after the war*, the two friends happened to have had five conversations together in the Southern District of New York!

*Transcript of Record, No. 687, U. S. Supreme Court, Oct. term, 1952.

†No risk of escape would be involved with such a request because the Mexican Secret Police were watching his movements.

‡It will be shown presently that the August 17 indictment against the Rosenbergs "and others . . . unknown" (returned two weeks *after* Shroder's complaint) failed to include the name of Morton Sobell.

X

In concluding this point of the prosecution's legal methods, there arise also these pertinent questions: Why did the FBI arrange to have Sobell spirited away in the night? Why didn't the men who seized Sobell wait to bring him before the proper constituted authorities? Why were they done so brutally? Why weren't the Sobells flown back to the States by plane instead of being subjected to that harrowing trip by automobile? Was this part of the method of turning him into becoming a compliant Government witness? And falsely accused of a bank robbery? Why was he himself required to produce identification cards, vaccination certificates, his child ticket, family snapshots and movies of their tourist trip? Why was he prevented from exercising the right of a citizen abroad to communicate with the American Embassy?

Throughout the entire court record, including the reply briefs on the appeals, there exists no answer to these questions and many more that might be logically asked.

As indicated earlier, there were two parts to the case against Sobell — his alleged flight, which we have examined, and the uncorroborated testimony of Max Elitcher. The testimony was as clear from the warning Judge Kaufman gave the jury:

"If you do not believe the testimony of Max Elitcher, then you must acquit the defendant."

Before we take up this testimony, let us first see how the man who had been Morton Sobell's boyhood schoolmate, and best friend — indeed, the best man at his wedding — sent him to a living death of thirty years in Alcatraz.

*Record, p. 1560.

"Max Elitcher? He Was My Best Friend"

*"The informer is different, particularly the ex-Communist informer. He risks little. He sits in security and uses his special knowledge to destroy others. He has that special information to give because he knows those others' faces, voices and lives, because he once lived within their confidence, in a shared faith, trusted by them as one of themselves, accepting their friendship, feeling their pleasures and griefs, sitting in their houses, eating at their tables, accepting their kindnesses, knowing their wives and children. If he had not done these things, he would have no use as an informer."**

THEY met first at Stuyvesant High as boys in their teens. Morton, about a year older than Max, was born on April 11, 1917. Both were native New Yorkers, both children of immigrant parents, both from more or less the same environments.

When he was fifteen young Sobell built his own "ham" broadcasting station and became a licensed operator. In 1934, when Sobell entered the School of Engineering at C.C.N.Y., Elitcher followed suit. In their class of some 200 students Morton formed other friendships, including one with a boy named Julius Rosenberg. To Max, however, the latter remained only a casual acquaintance. It had always been difficult for Max to make friends. Throughout his four years in college (his testimony discloses), he maintained "almost no social relations" with the members of his class.†

In 1938, when the two friends received their degrees, both were appointed junior engineers with the Navy's Bureau of Ordnance in Washington, where they decided they could save money by sharing a bachelor apartment. Their work was primarily in the fire control section and dealt with "computers for anti-aircraft control."

*This excerpt and others to follow are from Whittaker Chambers' *Witness*, Random House, New York, 1952, pp. 454-456.

†Record, pp. 264-265. (See Record for additional personal material regarding Elitcher; direct testimony: pp. 197-263; cross-examination: 264-394.)

After about three years of this work Sobell began to feel himself in a rut. While the Navy offered good pay and steady employment, he realized he needed more study if ever he was to make any constructive contribution in the field of electronics, his chief interest. Having saved enough for a year's tuition, he decided to try for his Master's at the University of Michigan. When he left Washington in September, 1941, the move was a great blow to Elitcher, who felt almost abandoned.

Only a few months after Sobell had started at the Horace Rackham School for Graduate Studies at Ann Arbor, Mich., the United States entered World War II. On Feb. 25, 1942, we find him registered with the National Roster of Scientific and Specialized Personnel of the War Manpower Commission as No. 8-27 194. In April he turned down a University Fellowship in order to do war work,* but felt rewarded by election into the honorary mathematical society which boasted Albert Einstein a member.

Throughout the war years Sobell worked at the Schenectady plant of General Electric, designing radar apparatus. In 1944, when Senator Harry Truman's committee was investigating the National Defense Program for inefficiency, Sobell aided the committee by analyzing wasteful methods in his particular field.† Another contribution he made to the war effort was a device he invented to improve "the functioning of Servo-motors," which was awarded a patent under No. 2-454-980 in the U.S. Patent Office.

In the meantime, the young man had fallen in love with a girl he had met previously in Washington whom he had been courting by correspondence. Her name was Helen Levitov and she was a petite brunette with dark eyes, a ready smile and given much to writing poetry. She had graduated from Wilson Teachers College in Washington, but, with the war shortage of personnel, had gone to work for the Bureau of Standards.

During holiday trips to Washington to visit her, Sobell would take the occasion to see his friend Elitcher. In the intervening years, the latter had also fallen in love and had married a girl with a

*On April 15, 1942, Sobell wrote to Dean Yokum as follows:

"I am very sorry to inform you that I will not accept the fellowship so kindly offered me. . . . Perhaps sometime in the not too distant future I will return to the University, sometime when the country does not need its men as sorely as it does at this moment." (From Motion for Reduction of Sentence, filed Jan. 8, 1953.)

†"The files of the Truman Committee will show this correspondence under reference W-3220-S." (*Ibid.*)

similar name: Helene. In March, 1945, Max was asked by Morton to be best man at his wedding.

For the next two years the Sobells lived in Schenectady. In 1947 Sobell received an offer to work at the Reeves Instrument Corporation in New York City. Early in 1948 they found a reasonably priced house out in Flushing, which they bought at a cost of \$13,500, having put up their savings of \$4,500 as a down payment.

In the meantime, back in Washington, Elitcher also wanted to make a change, but for different reasons. In 1947, in order to retain his job with the Navy, Elitcher signed a non-Communist loyalty oath and with it committed perjury. In that same year the "political atmosphere" in Washington, as Elitcher later testified, was such that he became "fearful" of arrest and imprisonment on charges of perjury.

At the same time, according to his testimony, certain marital troubles had developed between himself and his wife so that they "found it difficult to live with each other." Whether or not these difficulties were put to further strain by Max's increasing fear of arrest, his neurotic state became such that "upon [his wife's] insistence" he followed her into psychiatric treatment.

In 1948 Elitcher learned that the FBI had questioned his mother in New York and, with the political climate worsening, his fears became so great that even his psychiatrist could not assuage them. The following is an example of his state of mind admitted under cross-examination:

Q. You were scared to death at that time, were you not?

A. [Elitcher]: Yes.

Q. You have been scared to death ever since, have you not?

A. Yes.

Q. Talk up. Let these people hear you.

A. Yes.*

After he had definitely decided to make a change, Elitcher sounded out Sobell about prospects of a job at Reeves. Assured that he would be promptly employed, he took a two-week vacation in July and drove to New York to spend it with the Sobells while he and his wife looked about for a permanent home.

While driving up from Washington, Elitcher "found a suspicion taking shape in his mind" that he was being followed by some cars

which he presumed contained FBI agents. He fears that he was convinced they were in New York!

On arrival, when Elitcher mentioned surveillance, Sobell laughed it off, refused that two carloads of FBI detectives would follow someone for 250 miles from Washington. They suspected him of having signed a false statement. It was Sobell's opinion, if they wanted to investigate his associations they could do so more easily by making inquiries and obtaining reports from informants.

It was this visit which subsequently furnished celebrated cloak-and-dagger automobile testimony. When we come to its analysis of how an actual incident of a friend's behavior was transformed into an act of conspiracy. Parenthetically, it is Elitcher included in this tale his fear of the FBI, he managed to project it on Sobell. It became the latter who had been paranoid.

In October, 1948, Elitcher started work at Reeves and, soon after, purchased a house on 10th Avenue, around the corner from that of the Sobells. The two houses were almost identical and also their yards abutting. Each morning the two men would drive "in a sort of car pool," using each other's car.

By way of a passing comment, it was Sobell and Elitcher, as members of the Rosenberg family, entered into so close an association that it was admitted fears that he was still under surveillance seem unreasonable, too, even if Sobell had admitted that Julius Rosenberg, their father, had voiced the strongest objections.

In the beginning the two couples had purchased a washing machine together. They often enjoyed the chance to chat while waiting for the machine to finish. In the evenings they would drop in at either house for a drink, for they could see their children's back fence.

In June, 1949, Helen Sobell gave to

*Record, p. 361.

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months later the Elitchers had their second child, a boy they named Anthony.

Thereafter, the two couples found themselves gradually drifting apart. In addition to his teaching at Polytechnic Institute, Sobell was also taking graduate work at New York University.

In the meantime, too, a sharp personality clash had developed, oddly enough, between Helene Elitcher and Morton Sobell. She would frequently become incensed at him for criticizing her — for example, at her choice of Venetian blinds when she was fixing up the house. At such times, she would ask him to "stop meddling in my affairs." To Helen Sobell, she would later apologize for having lost her temper, but after all — Morton should try to realize his lack of tact sometimes.

The truth was that Sobell did have this fault and, while Elitcher was used to it, Helene found it "horrible." It is possible, too, that it was equated in her mind with inevitable comparisons between the two men, and the score was not a little unfavorable toward her husband. For whereas Morton had had the courage to quit his job with the Navy and qualify himself for more advanced work, Max had been too timorous to give up his steady job and rating. As a result, Morton was not only earning considerably more than Max and doing more important work at Reeves, but was apparently equipped to become a distinguished man in the world of science some day.

Finally, the rift became widened when it appeared to the Sobells that the Elitchers, unable to face up to the changing political scene, were conforming to it. Despite the crucial questions of the day, they began to show ever decreasing interest in what had previously stimulated their friendship. Whenever the Sobells would mention the gathering storm clouds of war or the political repression increasing day by day, the Elitchers would react uncomfortably. Subsequently, the Sobells confined their conversation to safer subjects such as the children and the condition of their respective lawns. Indeed, by 1950, the two couples had become almost like polite neighbors — no warmer, no cooler to each other than any other neighbor on the street.

Throughout this period, however, from mutual friends, the Sobells heard some unpleasant speculations that Max may have gone voluntarily to the FBI to give them the names of former "comrades," thereby hoping to stave off prosecution on his perjured oath. Morton simply could not believe this of Max and firmly rejected such speculations as contributing to the ever-widening atmosphere of suspicion and distrust.

Nonetheless, toward the end of June, when he prepared to leave for Mexico, he refrained from telling Max any of the details. He simply mentioned they were going on vacation, and since Max didn't ask where, he deemed it just as wise to let it go at that. It wasn't that he thought Max would scurry at once to the FBI with the information, but rather that the mere mentioning of his political reasons for going would lead either to a fruitless argument or to an intensification of Max's fears.

Reviewing the relationship as a whole, one cannot help thinking that there may have been still another reason why Sobell refrained from confiding in Elitcher at this time: That he was just too proud to display his own fears of the political atmosphere to the friend he had so frequently laughed at for that very weakness.

ii

"... Because he [the informer] has that use, the police protect him. He is their creature. When they whistle, he fetches a soiled bone of information."

In reconstructing the jigsaw puzzle of the total frame-up perpetrated against the Rosenbergs and Sobell, the case of Max Elitcher runs almost parallel to that of David Greenglass. In both cases a crime had been committed other than that of espionage. In both cases fear of arrest and prosecution continuing over a long period of time gave the FBI pliable material to work on. In both cases Rogge's inter-office memos disclose the deals that were made in exchange for perjured testimony. In both cases it is quite apparent that O. John Rogge was recommended to act as their attorney to encourage them to "co-operate" and to act as negotiator of these deals. In both cases the process of intimidation and coercion extended over a period of many months during which the case was built up. In both cases the step-by-step technique of self-entrapment was applied by pressuring the witness to sign a series of statements, each one a little more self-incriminating. And finally, in both cases the witnesses were instructed to conceal carefully the true facts concerning these statements and deals, and to testify falsely that they had told the entire truth promptly, freely and voluntarily.

In our later analysis of Elitcher's trial testimony, the full extent of his perjuries will be clearly exposed, but at this point we will concentrate only on those concerning the above parallels, beginning with the following claim:

[Elitcher]: . . . From the *first time* that I was approached by the FBI I decided to tell *the whole complete story*.^{*} (Emphasis added.)

According to the prosecution, this first time was on July 20, 1950, three days after Julius Rosenberg's arrest. At noon on that day, two FBI detectives named Cahill and O'Brien visited him at his place of employment (Reeves), and requested him to accompany them downtown to FBI headquarters. There, after a "short talk," it is Elitcher's claim that he "freely" admitted his part in the espionage conspiracy and that for the next three hours he filled in the details. During this period of interrogation, it is Elitcher's further claim, he made his confession without the advice of an attorney, and he only engaged Rogge as his lawyer one week later.

Following this initial discussion which was "confined mostly to Rosenberg," the detectives drove Elitcher out to his house, where the interrogation continued for another eight hours. "About midnight," after an "exhaustive statement" had been prepared by the detectives, it was read to him point by point. It was a statement of many pages and "took more than an hour" to read. During the reading, when the FBI man would stop to insert some additional point and look up for Elitcher's approval, he would say, "Yes, put that down." In a final paragraph of this statement (hereinafter referred to as Statement No. 1), the FBI detectives wrote that, in signing it, Elitcher thereby acknowledged that "no threats and no force had been exercised in connection with this examination."

On the next day, July 21, Elitcher testified that the FBI detectives came again to Reeves and that after a "full discussion" about Sobell's part in the conspiracy he signed a second statement (No. 2). During this interrogation, he states, he was asked by one of the detectives about Elizabeth Bentley, and that his reply had been that he knew nothing about her.

Some seven months later, however, according to Elitcher, he signed a third statement (No. 3), in which he provided "additional information." It was during the interrogation preceding this statement that he "brought up the name of Bentley" as well as the incident in which he had heard this name from Sobell who had heard it from Rosenberg.

Now let us turn back to the interview of July 20, which Elitcher insists was the very first time he had met with the FBI. Here is the record on this point:

^{*}Record, p. 295. Regarding Elitcher's testimony about his FBI interrogations, see cross-examination beginning on p. 269.

"MAX ELITCHER? HE WAS MY BEST FRIEND"

Q. [Bloch]: And when was the first time that you met the FBI?

A. [Elitcher]: In — it was July of 1950.

Further along in his cross-examination, Elitcher placed more precisely as a "Thursday" in the middle of July, sure, July 20, 1950, was a Thursday. He further pointed out calling that he had a two-week vacation in the beginning and that this very first interview was just prior to that. It should be stated, however, that as cross-examination Elitcher became increasingly nervous, especially when it commenced to probe into the matter of Bentley, and taken him seven months to remember the highly important incident in which her name had been talked about by Rosenberg.

Hard-pressed and unable to explain how he had omitted the incident from "the whole complete story" he was supposed to have told the FBI on the 20th and 21st of July, Elitcher became evasive. And suddenly, as Mr. Bloch flung at him a series of questions relating the time element involved in his three statements, the tissue of lies concerning his concealed meetings with the prosecution and Rogge before July 20 became inadventitious.

Q. All right. When did you make that first statement?

A. [Elitcher]: The first time I was called down here [FBI Federal Building].

Q. When did you make your second statement?

A. The next day.

Q. When did you make your third statement?

A. Quite a bit later. Some months later.

Q. You made that first statement *after* you had consulted with a lawyer, is that right?

A. That is correct.

Q. *After* you had already retained a lawyer?

A. Yes.

Q. And *after* you had been interrogated a number of times by FBI agents and members of the prosecuting staff, is that right?

A. Yes.^{*} (Emphasis added.)

And so we see that only *after* Elitcher had consulted with Rogge, and only *after* he had had a number of secret interviews with the FBI and the prosecution, did the July 20 interview, Statement No. 1 take place!

^{*}Record, p. 339.

In other words, all his previous testimony that he had been overcome by conscience, patriotism and a desire to tell the complete truth on July 20 — in his very first interview — is nakedly revealed as a fabrication. Revealed, too, is his bare-faced lie that, although the FBI had apprised him of his right of counsel during this first interview, he had declined that privilege. Here is that part of his testimony:

"I talked — I engaged the lawyers *after* I had spoken and given my story to the FBI, and not under his [Rogge's] advice." (Emphasis added.)

As one continues to study Elitcher's testimony regarding this first interview, the anatomy of frame-up becomes quite clear, especially that portion of it which is compounded of collusion and rehearsed instructions. Here is the record as he becomes flustered and forgets his instructions to such an extent that Saypol is virtually forced to correct him in open court:

Q. [Bloch]: . . . Do you remember the first day that the agents of the FBI called upon you at your place of employment?

A. Yes, I do.

Q. I think that was July 20, 1950, was it not?

A. I don't know the date. *It wasn't in July.*

Mr. E. H. Bloch: If you say that is the date we will accept that as the date.

Mr. Saypol: *That was the date.* (Emphasis added.)

Just a moment before we saw Elitcher state that his first interview was in July of 1950. Now he discloses that it *wasn't* in July. Then when was it actually? In June possibly — *before* Rosenberg's arrest? So it would appear when one scrutinizes the record and finds Mr. Bloch repeating that month again and again, with neither Elitcher nor Saypol making any attempt to correct him; for example:

Q. Now, when you were interrogated by the FBI for the first time, as you say, in *June*, 1950, did that fear of prosecution persist in your mind?

A. Yes, I *realized* what the implications might be. (Emphasis added.)

In short, while Elitcher may finally have succumbed to the pressures exerted upon him by July 20, and signed Statement No. 1 on that date, actually it was the result of a *number* of interviews which he had had in June. And it is reasonably certain from the totality of his responses that Elitcher was first questioned in the middle of June;

in other words, about the same time his former classmate Julius Rosenberg was questioned on June 16 — and certainly not much later than June 22, the date Sobell departed for Mexico.

To sum up, these are the reasons why the prosecution pushed up the date of Elitcher's first interview from some time in June to July 20:

1. Because if he was to tell the truth to the jury that he had signed Statement No. 1 *after* he "had been interrogated a number of times" by the FBI and the prosecution, then its entire value as a voluntary and freely told confession would have been completely destroyed.

2. Because if he had truthfully revealed that he "had consulted" with Rogge for many weeks *prior* to his signing of Statement No. 1, there was the risk of the defense probing into the entire deal which Rogge had made with the prosecution.

Certainly, it would have appeared strange and suspicious to the jury to hear that Rogge had advised Elitcher not only to submit to a twelve-hour interrogation but to sign a confession of guilt (Statement No. 1) without so much as telephoning his counsel! Taking this point one step further, it is Elitcher's testimony that he was certain he was going to be arrested on July 20:

"I thought — I was sure I would be taken into custody. I knew of nothing else."

This, of course, was another lie sworn to under instruction. It was designed to offset the defense's line of questioning that he had made a deal to purchase his immunity. And it was to conceal this deal that Elitcher had been instructed to state that he had not made any request to consult a lawyer. How fantastic and incredible all of this would have appeared to a jury: A man with a long-dreaded perjury indictment hanging over him, a man confessing to the serious crime of espionage, and a man convinced that he was to be arrested that very day — and yet, although he had previously taken the precaution of employing an expensive attorney, he makes no effort to contact that attorney even when he is invited to do so by the FBI!

While we are on the subject of Elitcher's concealed relations with Rogge, let us examine the question of how it was that Elitcher came to employ him, *i.e.*, the *same* attorney who was representing the Greenglasses. Here is the record as Mr. Bloch asked this question of Elitcher point-blank:

Q. Who recommended you to Mr. Rogge's office?

A. No one.

And here is Elitcher's self-contradiction as he wearies under cross-examination and makes this "slip":

The Witness: Well, we (my wife was with me) went down to Mr. Rogge's firm *with our recommendation*. (Emphasis added.)

And now, as Mr. Bloch endeavors to trace the recommendation of Rogge to its obvious source, we find Elitcher again obeying instructions to conceal it:

Q. Now, prior to the time that you went down to Mr. Rogge's office was any mention made here in the Federal Building by anybody, whether it be a Federal man or whether it be a member of Mr. Saypol's staff, or whether it be you, about Mr. Rogge?

A. No.

Q. Was his name ever mentioned?

A. No.

But Elitcher, as we have seen, did come to Rogge's office with a *recommendation*. If it was from a source other than the FBI or the prosecution, why does he try to conceal it by stating that "no one" recommended him? The answer is obvious: The jury must not know of the close bond existing between the FBI, the prosecution, and Rogge.

What is Elitcher's story of how he came to choose O. John Rogge out of all the thousands of attorneys in New York City? How was it that he picked *precisely* the Greenglasses' attorney? According to his trial testimony, not until a week *after* his signing of Statement No. 1 did he decide to seek legal counsel. Whereupon, on or about July 27, he went up to the law office of O. John Rogge and retained him.

Under cross-examination, Elitcher swore that this was the "first time" he had gone to see Rogge, that he did not know the lawyer was also representing David Greenglass, and that he only learned of this fact on "the day" he met Rogge's law associates. On being assured that there was "no conflict of interest," he was "quite happy to have them" and paid them their fee.

In further testimony there is his admission that at this time he was still "fearful" that he "might be prosecuted by the Government of the United States for perjury"; that he had discussed this

danger with Rogge, and that he knew "ties were from reading . . . some of the pe

One must truly strain one's credulity to in fear of a prison term for perjury for seeking legal help. But, if he was in fact a and Sobell, it is even more difficult to i read of the former's arrest on July 17 at to the need of expert advice.

In describing his first visit to Rogge t "wanted counsel in regard to some imj Rosenberg." Surely this is a curious ph week before had signed a statement con not at all curious when we restore Elitch to its proper place in the calendar — ba

Credulity is further strained when we grueling twelve-hour interrogation and No. 1, when Elitcher was so certain of an before looking for a lawyer. One would occurred to him to do so after the signi next day. But no; he still remains indiff with no explanation for the delay and i obtained the "recommendation," we fin suddenly quaking with fear of prosecuti days *after* he has confessed in writing to nage!

On this question of who recommended attorney, let us not forget that it was thi and the Greenglasses — who provided the Sobell and the Rosenbergs. And if any f to this onslaught upon credulity, surely i testimony when he describes what was p coincidence in legal annals:

"They [Rogge, etc.] told us then t Mr. Greenglass, which was a great v

*It is significant that the ill-fated William plagued by Elizabeth Bentley ever since 1944 at this time, i.e., June 8, 1950. Thus one can on Elitcher when the FBI first mentioned to Bentley. In view of the time element involve of a chilling object lesson to Elitcher as that Greenglass.

at the approximate penal-
ary cases."*

believe that Elitcher, living
n, waited so long before
conspirator of Rosenberg
ngine that he could have
still remained indifferent

also testified that he had
ation in these affairs of
ing for a man who one
ing conspiracy. But it is
first meeting with Rogge
June.

consider that even after a
the signing of Statement
he still waits a full week
think that it would have
of Statement No. 2 on the
ent. Then, six days later,
explanation of where he
im at the office of Rogge
for perjury; and this, six
conspiracy to commit espio-

ogge to become Elitcher's
"unholy three" — Elitcher
convicting testimony against
other comment be needed
found in Elitcher's own
ably the most remarkable

they were employed by
rise to us."

emington, who had been
as indicted for perjury just
ualize the shocked reaction
a the Nemesis-like name of
it must have been as much
Allred Dean Slack was to

iii

"... For what is the day's work of the police is the
ex-Communist's necessity. They may choose what
they will or will not do. He has no choice. He has
surrendered his choice."

We will recall that Statement No. 2, which Elitcher claims to have
signed on July 21, was alleged to have been based on a "full discus-
sion about Sobell":

Q. [Saypol]: Is that the time you told them [the FBI] about
Sobell?

A. [Elitcher]: Yes. I had mentioned Sobell on the previous
day, too.

Somewhat later, when he is cross-examined by Mr. Bloch, Elitcher
explains that, when he had signed Statement No. 1 the night before,
it had "primarily regarded Rosenberg." And because it was "quite
late" that evening, the FBI told him that the further statement (No. 2)
"would primarily take Sobell into account." It is Elitcher's further
testimony that what he had told the FBI on those two days — July 20
and 21 — was "substantially the same story" he was telling on the
witness stand.

Now we have seen by Elitcher's own admissions* that his discus-
sions with the FBI and the prosecution actually commenced a con-
siderable time before July 20 and 21, in all probability around the
same dates in June. Is it likely, then, with Sobell's departure for
Mexico on June 22 — which we have seen so damagingly connected
by Saypol and Hoover with Greenglass' arrest on June 16 — that an
experienced prosecutor would not promptly have questioned Elitcher
concerning Sobell's possible role in the conspiracy? And if it is true
that Elitcher was determined to tell "the whole complete story" and
"the whole truth" the very first time he was approached by the FBI,

*Unfortunately, these vital admissions were overlooked by the defense and
were neither used for further cross-examination nor as a point to emphasize
in summation. In discussing this oversight with one of Sobell's present at-
torneys, the latter agreed that it was a serious one, but offered in explana-
tion that in the heat of court battle such oversights frequently occur.
Certainly, it must be noted that if both the Rosenberg and Sobell attorneys
failed to realize the significance of Elitcher's admissions, the jury can hardly
be blamed for its failure to note them. It was, however, the duty and
responsibility of Judge Kaufman to see the importance of these admissions.
Before he imposed his thirty-year sentence on Sobell — and by law he could
base that sentence only on Elitcher's testimony — he had an entire week to
study the court record, certainly enough time to grasp the full significance
of Elitcher's rehearsed perjuries.

then Saypol would have known all about Sobell's guilt almost as soon
as the latter had arrived in Mexico.

Why, then, would Saypol delay ordering a warrant for Sobell's ar-
rest from mid-June until August 3? And more important, why did he
not have Sobell indicted together with the Rosenbergs on August 17?

Faced with these contradictions, Saypol resorted to the familiar
device of the "built-in justification" in an effort to explain that
Elitcher's confession had been on the installment plan:

Q. [Saypol]: There came a time in the development of the
case by the Government agencies that you continued your con-
ferences and you supplied additional information?

A. [Elitcher]: Yes.

Here, then, in Saypol's best effort to bolster the credibility of his
only witness against Sobell, is a clear admission of the step-by-step
process which took place between the early summer of 1950 and the
winter of 1951. Couple this with Saypol's other striking admission,
that "initially nobody knows whether an individual is a prospective
witness or a prospective defendant," and we can see exactly what
was meant by the "development of the case."

It was simply that Elitcher had slavishly fetched his testimony
soiled bone by soiled bone. By the logic of his entrapped position,
he was made to understand that if he didn't agree to become a wit-
ness against the Rosenbergs and Sobell he would find himself a co-
defendant with them.

According to another of Rogge's file memos, dated March 19, 1951,
shortly after Elitcher had testified Rogge requested of Assistant Attor-
ney General McInerny that his client be rewarded, not only with per-
manent immunity, but FBI security clearance for future employment:

"He [Elitcher] has never been named as a defendant or as a co-
conspirator in any prosecution and it is reasonable to assume he
never will be."* (Emphasis added.)

iv

"... To that extent, though he be free in every other
way, the informer is a slave. He is no longer a man.
... Let every ex-Communist look unblinkingly at
that image. It is himself."

When one studies the line-by-line testimony of Max Elitcher one
is struck by the frequency with which he unintentionally reveals the

*For additional references to this memo, see Chapter 14, section xi.

truth. It is not difficult to understand this when one considers the enormous strain he must have undergone in avoiding the eyes of his former best friend, Morton Sobell. There was also, of course, the intensive cross-examination which finally unnerved him. Finally, it should be noted that Elitcher had been under a psychiatrist's care for two years. According to his own testimony, he had been a neurotic all his life.* In the years Sobell had shared an apartment with him in Washington, this was manifested by the hoarding of an excessive number of shirts and of suits. Unless he was able to choose a different shirt and suit to wear each day, he found it difficult to get dressed at all to go to work.

Some additional light is thrown on Elitcher's mental state, at the time of his signing of the first two FBI statements, by the following fact disclosed in his own testimony: In that same month of July, 1950, he paid his *last visit* to his psychiatrist. This point seemed sufficiently significant to this writer to consult with some outstanding psychiatrists. The consensus was this:

First, that Elitcher found it beyond his capacity to admit to his doctor — whose respect he must naturally have sought — his readiness to testify falsely in order to save himself from imprisonment for perjury. As for attempting to conceal this from his physician, that would be absurd on the face of it. For the very essence of analytical treatment is to air honestly all of one's anxieties, tensions and conflicts.

Second, if he did manage to admit his perfidy and tried to excuse it because of his fear of arrest, it is most probable that his psychiatrist had informed him that under such circumstances he could no longer treat him. And if this occurred, Elitcher could hardly risk running from doctor to doctor, trying to find one who might consent to "cooperate" with him. Moreover, it is safe to venture that he must have been instructed by the FBI and/or Rogge to be extremely careful what he confided to his analyst, since a physician is not ethically bound to silence where a crime has been committed.

And third, that Elitcher had simply resolved his personal conflict by himself. Right after Julius' arrest on July 17, he could have entertained the rationale that Rosenberg had decided to "play ball."†

*For Elitcher's description of his psychiatric treatment, see Record, pp. 380-381.

†At the trial, Elitcher stated that he had followed closely the newspaper accounts of Rosenberg's arrest. It is reasonably certain, in the terrified frame of mind he was in, that these accounts gave him the impression Rosenberg was also "cooperating," and had even decided to "confess" to

Later, he could also rationalize that Sobell. Thus he could assure himself that he was doing irreparable harm. And having reached to his conflict, Elitcher very simply decided to take the road of confession with the luxury of a psychiatrist's couch. Now confessing his "sinful" Communist past.

The following excerpts are from an address by Elitcher, "Breaking the Communist Spell," in which he offered spiritual counsel and comfort to the ex-Communists: "break the bonds which have enslaved I

"We of the FBI have known and are now going through this painful process of

"... He [the ex-Communist] may find persons who, like himself, entered the Communist Party for certain ideals. They, like him, refused to accept the injustices and prejudices of their society

"... On the other hand the ex-Communist must realize that the Communist conspiracy was a tragedy he deplored. If this conspiracy is successful, he and their children will be the tragic victims. He erroneously thought they were fighting for a better world

"... So now the ex-Communist must ask himself: 'What am I really 'protecting' his former associates? Is the information he possesses? Or is he not protecting himself as well as his family, himself and his country? What higher loyalty — ?

"... At the FBI, we have assured the ex-Communist that all revelations will be regarded as confidential and willing — as they will be if they are based on their knowledge as testimony in trial

something. For example, in the New York Times, after Julius' arrest, it appeared as though it were

"The FBI quoted Rosenberg as saying that he would directly help Russia."

Not only was this same report repeated in the New York Times, but also in the New York Times, where the concern was concerning Rosenberg's motivation. This was so that it appeared as though Julius had admitted

"The FBI investigation revealed. Mr. Rosenberg made himself available to Soviet espionage work he was fated for" and "so he might have

•This Week, Nov. 1, 1953.

ould surely do the same.
really doing them any
or some such solution
o save money. Having
e no longer needed the
d other means of con-

by Mr. Hoover entitled
Mr. Hoover gives spir-
nist informer about to
nd":

d with many who were
sion.

sense of loyalty to those
munist movement with
accept passively the in-

unist . . . has come to
nds for the social evils
l . . . he and his friends
ctims of the evils they

is question: Is he actu-
withholding the infor-
mation endangering them,
society? . . . Where lies his

n [the ex-Communists]
nfidential until they are
nce is sincere — to use
loyalty hearings."*

[July 18, 1950) report of
r admission of guilt:
nted to do something to

ly News (July 18, 1950),
s even an FBI statement
within quotation marks
said it himself:

er said, that Rosenberg
ents 'so he could do the
ething to help Russia.' "

v

*"On that road of the informer it is always night.
I who have travelled it from end to end, and know
its windings, switchbacks and sheer drops — I can-
not say at what point, where and when, the ex-
Communist must make his decision to take it."*

In his attempt to bolster the credibility of Elitcher by explaining that there was a series of conferences while the Government developed its case, Saypol also exposed the fact that there was no evidence against Sobell at the time of his arrest on August 18. Indeed, it is entirely possible that Statement No. 2 was prepared or rewritten as late as early October and then falsely dated back to July 21. There is no other logical explanation than this, because if there had been a "full discussion about Sobell" on that date, why was it necessary to have such an extraordinary number of conferences with Elitcher in the months that followed? Here are some excerpts from Elitcher's testimony referring to these conferences:

"Well, I have talked to the FBI on many occasions."

"Well, I have talked to Mr. Kilsheimer [another of Saypol's staff] and Mr. Cohn."

"I have talked with Mr. Lane. . . . Well, I have talked to him on more than one occasion."

"Well, I spoke to Mr. Saypol on, I believe, three occasions . . ."

In addition, there were four conferences at Rogge's office in August, the last one taking place before Elitcher was "voluntarily" taken into the Grand Jury room on August 15. And just "prior" to this appearance he was called back in the second week of August to "go over the story" with Myles Lane:

Q. Was that the only time a member of the [Rogge] firm came over with you [to the Federal Building]?

A. No. He [Rogge] came over I think on another occasion when they were questioning me, when Mr. Lane's office was questioning me.

(Note: The question concerning Rogge's presence was important for this reason: To show that these conferences were not for the purpose of clarification, but were in the nature of round table discussions involving the quid pro quo of a deal.)

At his appearance before the Grand Jury on August 14, Elitcher was examined by Lane. Considering all the previous conferences in addition to Elitcher's full discussion of July 21, one must assume this was done with exactitude. And yet we find, when the Grand Jury returned its indictment (No. 1) against the Rosenbergs, it reads:

"... And with divers other persons presently to the Grand Jury unknown." (Emphasis added.)

Nor did Saypol see fit to ask for Sobell's indictment when he was officially arrested in Laredo on August 18; nor upon his removal to New York on August 22; nor even after Sobell had been arraigned and placed under \$100,000 bail. Nor all through the month of September.

Not until the indictment of October 10 (No. 2), do we find Sobell named as a co-conspirator of the Rosenbergs. Clearly, by that date, Saypol had decided to name him as a defendant.

Why did it take well over two months to indict Sobell if Elitcher truly had a "full discussion" about him with the FBI on July 21? Why, if Mr. Saypol, on August 18, said to the press "that Sobell had many dealings with Rosenberg in the conspiracy to supply Russia with atomic secrets," did he not also say it to the Grand Jury a day or two before? Let it be clear from the record that there was *only one source* from which he could have had this knowledge, and that was Elitcher. If so, why is it that Lane failed to have Elitcher repeat this information to the Grand Jury on August 14?

And so we see by the calendar of events that there were no possible grounds for the brutal assault on Sobell and his incarceration under prohibitive bail *other than his so-called flight*. Evidently, although Lane had approved of Shroder's grounds on August 3 — the five "conversations" between Sobell and Rosenberg — he did not consider these sufficient to bring to the attention of the Grand Jury on August 14.

And rightly so. Because these were supposed to be espionage conversations taking place between two spies. According to the record, they were not overheard by anyone. How, then, did Shroder *know* that these conversations had involved espionage? Certainly, the conversing conspirators never confided in him. And if it be argued that Sobell had divulged the illegal nature of these conversations to Elitcher, then again why didn't Lane have these disclosures presented to the Grand Jury on August 14?

It should also be noted that not only was none of these five "overt acts" ever proved to have taken place, *but not one of them was even*

mentioned at the trial. In fact, for a period of six months and three weeks after his arrest, the only way Sobell was "informed of the nature and cause of the accusation"* was by the dreary repetition of these five "conversations."

If anything illustrates the apathy of our courts in the political climate of 1950, it is this fantastic situation. For on such outrageous grounds any friend of any suspected man could be arrested — one's grocer, butcher, neighbor, cousin, fellow-worker — anyone who could be said to have conversed with the accused!

It would appear that Saypol went on the assumption that the more outrageous "Justice" appeared to Sobell, the more disheartened he would become and the more ready to cooperate. To be sure, Saypol had the same confidence about the Rosenbergs' inevitable submission. And even though they had shown no signs of yielding thus far, there was still a good chance they might. After all, Saypol knew he had his pair of aces back to back in the Greenglasses. However, to really "make a case," whether it resulted in the Rosenbergs' submission or conviction, how much better it would be if he could also add to his pair of aces a pair of jacks, with Elitcher and Sobell confirming each other. And perhaps, very soon now, he would draw still a third jack in the person of William Perl, and thereby hold a full house!

In any event, Sobell must already realize the deck was stacked against him. He was already convicted by newspaper as an atom spy "nabbed" while fleeing the United States. He was already helpless behind bars under \$100,000 bail. The next step was more subtle:

Let him remain there in total ignorance and let him torture himself with the unknown, together with the Rosenbergs. Let them keep pacing their cells day after day, month after month, each interminable day a ceaseless agony of longing — husband for wife and wife for husband — longing for each other's warmth and touch, for the caress of their children, for fun and laughter, for the summer sun. And let the summer of 1950 pass, and the autumn and the winter too if necessary, and let them keep pacing their cells — still longing and still plagued by the unknown — all three of them in their three different prisons contained within a single square mile on the lower end of the island of Manhattan.

*"In all criminal prosecutions, the accused shall . . . be informed of the nature and cause of the accusation. . . ." (Article VI, Bill of Rights.)

"So Many Prisons"

" . . . It is three
seven feet high. A
An electric bulb
light through the
result is a ch

A MAN is thrown into jail, then a man a friend. In every city there are screams Spies." In blind agreement, tens of millions heads gravely. Editorials appear about again there are millions of nodding heads

Some eight months later there is the the wife wears a "pink blouse," how the sized mustache" and how the friend has this they are ciphers. Of what happened during those many hundreds of days at for trial there is not a word; not even a quick to accept guilt by accusation, the symbols of the "enemy" within.

It is an essential part of the political presented as symbols in terms of an dehumanized, presented as cold-blooded tion. And in the period of 1950-1953 height, the press fell readily in line with even in 1953, when it was disclosed that Pius himself had been officially suppressed maintained silence on what His Hol Rosenbergs' long ordeal:

"Further, the case of the young man is so pitiful as to arouse sincere concern
"In particular, that a woman should

*From a letter of Julius Rosenberg described dated April 19, 1951.

for the moment of execution is in itself an event as tragic as it is rare, and is such as to arouse instinctively a sense of horror.

"When, then, two children, Michael, 9 years old and Robert 5, are involved in this tearful fate, many hearts can be melted. . . .

"No one can deny how this circumstance at least gives reason to the heartfelt insistence of the mothers who wanted to bring their agonized pleas to the Vicar of Him who dearly loved children."*

•

From the day of her arrest to shortly before trial, a period of some eight months, Ethel Rosenberg was able to see her husband on only three occasions. These occurred when they were picked up at their separate prisons and brought to the Federal Building to be indicted. Aside from these brief public occasions, their only means of communication was through their letters or oral messages delivered by their attorney.

From these letters, from interviews with Emanuel Bloch, and from the previously mentioned research done by Virginia Gardner among former cellmates of the Rosenbergs, it is possible to report some of their reactions to their surroundings, to their separation from each other and their children, and to the political setting in which their case was framed.

" . . . Sweetheart, we must go on pouring out all that we feel towards each other in our letters. How frustrating it is, though, to have only this means of communication."

They were permitted only one letter each week, but it seemed to Ethel that whenever she became most depressed a letter from Julius would arrive just in time to give her a lift. What helped, too, were the Jewish religious services which she found "all too short." At the Protestant, Catholic and Christian Science services, which she also attended, she was invited to sing the hymns and, after this became known, there were repeated "requests" from the women all along her corridor. The tedium was helped also by the daily hour of exercise up on the roof, playing "games of catch."

Always, however, there was the long night. Then it was "lights out by 9:00 P.M." and she would toss restlessly on her cot with thoughts

*"The Significance of an Intervention," a front-page article in the *L'Osservatore Romano* (April 16, 1953), the official newspaper of the Vatican, elaborating upon Pope Pius' suppressed appeal that clemency be granted the Rosenbergs. (Note: At the time of the Rosenbergs' arrest, Michael and Robert were 3 and 7 years old.)

of her "shattered home." And, unable "to prevent thoughts of the children," she would sob into her matted pillow until at times it would result in an "uncontrollable crying jag." Some nights she would imagine she was holding little Robby in her arms. Then the women in their cells along the corridor would hear the strains of Brahms' Lullaby and their hearts would go out to the sorrowing mother.

Some nights her cellmate would wake startled to hear Ethel's moaning from the cot below. Thinking that Ethel was having another "drumming headache," she would clamber down to minister cold compresses. No, it was not a headache, it was a nightmare, Ethel explained. She had "heard that scream again" of Michael's, that agonized scream on the telephone the day of her arrest.

When the women would read in the tabloid columns that Ethel Rosenberg was so hardened that "she didn't care enough about her children to have them visit her" they would exclaim angrily, "God, what do they think she's made of!"

Some days, during the exercise period, Ethel and her cellmate would stand up on tiptoe on the benches along the wire-fenced roof edge. Their eyes could just peer over it into the street far below. There they would catch a glimpse of the busy, crowded corner of Eighth Street and Sixth Avenue, just across from the towering, grim structure with its 400-odd women prisoners. And while her cellmate would make droll remarks imagining that they were part of the bustling freedom below, Ethel would look westward in an effort to see "the flag on top of the West Street jail," hoping that Julius, too, at this moment, might be looking eastward toward the Women's House of Detention.

ii

" . . . Two sides are solid steel plates. The back has more wire mesh covering steel bars, and the front, steel bars four inches apart, intersecting at 10-inch intervals flat steel reinforcing bars."

It was the first of October and Julius had taken to crossing off the days on a calendar. Two months and two weeks had passed since the night of his arrest, but he knew as little as he did then about his "conspiracy to commit espionage" or what evidence the prosecution intended to offer at the trial. One thing he did know, however — they had certainly done everything possible to destroy his morale, home

and family. Today Mr. Bloch was giving up their apartment. He and Ethel had wanted to hold on to it because of the low rent; it was only \$51 a month, but there was simply no money.

One of his sisters had already sold their furniture to the junkman and had received less than \$100 for the lot. His machine shop had long been liquidated. Up in the Bronx, somewhere in a shelter home, overcrowded and understaffed, were his two boys reportedly in need of psychological care.* Over in that other prison was his grieving wife. A few days before, on her birthday, he had tried to raise her spirits with a telegram. Today, he had received her reply:

"My dear Sweetheart,

"... With all you have to plague your mind and spirit, you still manage the card and telegram! ... It helps me endure the heart-break of our separation and that of the children. Each morning before rising I fight down a sense of desperation ... an insane impulse to shriek aloud for them and for you."

When Julius had first learned about his mother-in-law's attitude to the children, he had been shocked. As he commented at times to his attorney, they were indeed a strange lot — those Greenglasses. The only one Ethel seemed to take after was her father, but that poor man had never counted for much in the family. It had been dominated entirely by the matriarchal Tessie. And although she had always been scornful of her daughter in favor of the sons, for some complex reason Ethel had always retained an almost neurotic allegiance toward her as well as toward David. She called this her "family ties."

Even now, with all that David had done to them, Ethel seemed to lack any special bitterness toward her brother. Not even by a passing reference in her letters was there any trace of it. And if there was any bitterness at all, it was because of her mother. In this respect, she would continue to torment herself with the anguish of rejection.

All her life, even as a little girl, Ethel had plagued herself about her mother's unrelenting antagonism. In adult years she began to understand what was wrong, but still kept striving vainly for her mother's love. When she had been in high school, her mother had resented her interest in the arts. This was unusual, for immigrant

*When Mr. Bloch explored the possibility of the children visiting them, the Rosenbergs were advised by a specialist in child psychology that it might be detrimental for the children to see them in two separate prisons, and that it would be much better to wait until after the trial, hopefully, following their acquittals.

parents generally "thirsted for education" for their children, her mother would not have minded it so much in one of them, but in a daughter she found it unseemly. Perhaps, also, her daughter happened to be the favorite of her husband.

When Ethel's girl friend Rhina would call up to ask how she would frequently hear this lament from Tessie Greenglass:

"Where is Ettie? Where do you suppose she is? She's somewhere in New Jersey. I don't understand why she's out and get a job."

To another girl friend, Laura, Mrs. Greenglass always spoke as "a bitter woman, whose affection, such as it was, all went to the boys in the family." When Ethel began to save for the purchase of a second-hand piano, her mother had tried to discourage her. It had meant them to have a piano, he would have provided for her. If this hadn't been done, it was flaunting the wishes of the Almighty.

Another friend, Kate, recalled that Ethel's family could not understand her complete disregard for money. They seemed "rooted in the Ghetto, spiritually impoverished." One had the impression that they resented Ethel's talents as emphatically as their own barrenness. And possibly it was this very imbalance which created Ethel's self-imposed burden of obligation. Indeed, it was so heavy that it weighed her down even after her mother's death. The demand when finally she came to visit her daughter.

In the visitors' room of the Women's House of Detention, each prisoner is separated from the others by thick plate glass. Conversation is by means of an obsolete telephone apparatus through which one speaks while the other listens. The result, when the room is full, there is quite a clamor. It is less troublesome to write notes which they hold up and read through the glass.

However, when Tessie Greenglass arrived, Ethel found to her surprise some strange "magic" a "table visit" had been arranged in a private room. Unable at first to understand why such special treatment had been accorded them, she soon guessed the reason. Almost immediately after their embrace her mother began to belabor her:

"What are you doing to Davy? You have it in your power to save Davy!"

Realizing what her mother was implying, Ethel stared at her. She wanted to scream: "What is Davy doing to us?" But she was frozen; every bone in her was chilled to the marrow. Her mother was asking her to confirm her brother's accusations!

She sank down into a chair as her mother continued to rail at her stupidity for defying those in absolute power. In the old country, when the Cossacks had started pogroms, a good Jewish daughter and her man hid themselves until the fury was spent. The foolhardy ones, the "Zionisten," the "Socialisten," who tried to fight back, were crippled and slaughtered. If during the rampage a Jew chanced to be trapped, the wise one would give the hoodlums all the wine and schnapps in the house, hoping to get them into a stupor. He would even let them pull out his beard and dance for them — anything to ward off catastrophe — anything . . . !

There was nothing Ethel could reply; she just sat there in dull misery waiting for the matron to call time. When she reported this incident to Mr. Bloch it was some days later, but she still appeared like a stricken person.*

iii

"So many prisons, such a world of unending misery to have set foot upon, institutions for the damned; innocence was no protection in that world."†

At first there had been Laredo and then it was the New York City Tombs. At first Helen Sobell had wondered why they had chosen to place her husband there instead of in the Federal prison. Later it

*About a year and a half later Tessie Greenglass visited her daughter again in the death house at Sing Sing and renewed this proposal. Ethel described it in a letter to her attorney, dated Jan. 21, 1953:

"Dear Manny;

"This is to let you know that my mother was here on Monday . . . I am still in a state of stupefaction over its bold-faced immorality. . . . Our conversation follows. . . . Said she: 'So what would have been so terrible if you had backed up his [Davy's] story?' I guess my mouth kind of fell open. 'What,' I replied, 'and take the blame for a crime I never committed, and allow my name and my husband's, and children's to be slandered to protect him? . . . Wait a minute, maybe I'm not getting you straight. Just what are you driving at?' She answered, 'Yes, you get me straight; I mean even if it was a lie, you should have said it was true anyway! You think that way you would have been sent here? No, if you had agreed that what Davy said was so, even if it wasn't, you wouldn't have got this!'

"I protested . . . 'But, Ma, would you have had me willingly commit perjury?'

"She shrugged her shoulders indifferently . . . 'You wouldn't be here!'"

†From the article by Helen Sobell, *op. cit.* Note: The sections concerning Morton Sobell in this chapter are based on personal interviews with Mrs. Sobell.

became all too apparent that it was in line with the prosecution's expectation that Sobell was a "prospective witness." In any event, she was not displeased, since the Tombs allowed daily visits whereas the West Street jail did not. Each day she went to visit him and —

" . . . learned where to stand in line, how to ask for booths which had the telephones . . . learned how to talk through the 'talking holes' when I failed to get a telephone."

After a few days she brought "a little box" to stand upon, since she was not tall enough to see her husband's face through "the small, glassed opening." They preferred to speak through the "talking holes" rather than over the impersonal telephone apparatus. There was much to discuss: how to raise money for legal expenses, from whom to borrow, and how to go about selling the house and car.

The pressure to turn Sobell into a Government witness had already begun in that steaming cell back in Laredo, when the FBI agents had suggested, "Look, why be a patsy? Why don't you make it easy for yourself? Why don't you cooperate?"

When in reply he had told them that he was innocent, they had warned him that he was making a big mistake.

Here in the Tombs, they had assigned him to the fourth floor. From time to time one of the guards or a trusty would jokingly remark that special privileges were to be had up on the famous eleventh floor. The implied invitation was not lost upon Sobell, because via the prison grapevine it was known that both Gold and Greenglass were being quartered there.

The "breaking process" on Sobell assumed various methods which continued even into the period after the trial. Certain prisoners would be assigned to make friends with him. After a while, there would be the furtive question: "Are you the kind of guy who can be told something important?" Then they would tell him that they had overheard the FBI say in the Warden's office that: . . . Sobell wasn't going to be given an inch; that it was going to be plenty tough on him unless he played ball and started "talking." How . . . ? Anything — make up a story — any kind of a story. Never mind the details. Just say Rosenberg tried to get him to spy, but that he had refused to go through with it. Or they would come with whispered rumors supposedly relayed through the "grapevine" about his wife's faithlessness. These would be followed by anonymous notes such as: "Is it true your wife is going to leave you? A friend."

It was not too difficult for Sobell to see through such an obvious stratagem. It clearly stemmed from official sanction. As a Federal

prisoner, he was allowed to receive letters only from a specified list. Hence such an anonymous note, even if it were authentic, would normally have been destroyed by the prison censor.

It should be added that among the less disguised pressures was the special ruling that Sobell was not to be permitted the customary daily exercise period out in the open air. The Tombs, therefore, meant more than just a morbid name to this young scientist whose only crime was that he refused to bear false witness.

iv

*" . . . Saypol requested in referring to where he [Greenglass] is stationed . . . we simply mention the Tombs and not mention that it is the 11th floor."**

In our study of the anatomy of frame-up emphasis has been made of the point that the various officials involved generally do not risk direct participation.† There is a time, as has been indicated, when actual machination is essential, usually in the fabricating of the central core of the case. One time-tested method is to delegate this responsibility to someone who can be relied on and yet is in no position to expose the fabrication, since he himself is entrapped by it.

Certainly there was much to be "remembered" and ironed out by Gold and Greenglass while the months of August, September, October, November and December of 1950 dragged by. There were

*From a Rogge file memo dated July 20, 1950, not submitted in the "newly discovered evidence." This memo describes a telephone call to Rogge from Saypol concerning Greenglass' transfer "to the Tombs Prison, 11th Floor." (See Appendix 3-A.)

†Sometimes prosecutors become so avid to obtain convictions that they will take this risk. In a recent murder trial in Queens County, New York, this appears to have taken place when two Assistant District Attorneys were sensationally exposed in open court by their "key prosecution witness," one Michael Garcia, an unsentenced prisoner. According to his sworn charges, they had promised him leniency in exchange for false testimony "that would send another man to his death."

The case quickly became known as the "Judas Case," because Garcia suddenly tossed two silver coins at the feet of the surprised prosecutor and shouted, "I'm no Judas . . . I'm not going to tell lies for the D.A." He also exposed that they had threatened to put him "in jail for a hundred years" if he did not testify as ordered.

The jury, evidently convinced that the defendant in the case, one William Brown, was the victim of framed evidence, acquitted him. (See New York Times, Dec. 14, 16 and 18, 1954.)

the details of the Jello box to be worked out — he got their half and how Gold got his. There was the table, which, as we will show later, could not have been invented until some time after October, 1950. The "citation" to be given to Julius (evidently inspired by the "Order of the Red Star" awarded to Gold later in the trial). But, above all, there was the necessity of having a copy and painstakingly memorize all the scientific details to present in replica form and describe at the trial.

It goes without saying that when such an arrangement was made, the very crux of the frame-up, it is the one best known to the jury, the most difficult to uncover. However, during argument on a motion made before the jury for a new trial, Emanuel Bloch made the following

"Moreover, Your Honor, I say to the Court that the books of the Tombs were subpoenaed, and the question of the books at the eleventh floor came before the Court. That books were brought in to Greenglass and consultation with others."*

Continuing the challenge, Mr. Bloch described the "eleventh floor" as particularly conducive to the collusion.

"Gold and Greenglass were lodged on the eleventh floor of the Tombs for many months prior to the trial. The cells on this floor, which is reserved for 'informants,' are permitted to fraternize without any molestation by the guards."

And here is Ryan taking judicial notice of the fact that the defendants are lodged on this particular floor:

" . . . It is a certain portion of the jail known as the practice criminal law as the singing quarters."

Needless to say, the prosecution refrained from making any reply to Bloch's challenge. The execution date for the Rosenbergs was set for less than thirty days off and it was much safer to let the trial go on. Here is one of Mr. Lane's attempts to weaken the case by implying that the trial jury had been aware of the collusion and had discounted it:

*Transcript of Record submitted to Supreme Court, No. 100-40537.

by the Greenglasses
"Russian" console
ably have been in-
e was the Russian
d by Mr. Hoover's
e *Reader's Digest*).
Greenglass study,
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the possibility of

"The fact that Greenglass saw Harry Gold while the two were lodged in the same prison was *admitted by Greenglass at the trial.*" (Emphasis added.)

During the argument which followed, Mr. Bloch continued challenging the prosecution's studied silence on the specific charge that Gold and Greenglass had consulted together after scientific "books were brought in":

"Mr. Lane makes no denial of my allegation that the prosecuting officials or the FBI aided in coaching of Greenglass."

That Lane's silence was virtually an admission of the allegation could hardly be contested even by the hostile Ryan (the same judge who later sentenced William Perl to a maximum term despite the jury's recommendation of mercy). However, Ryan realized that Bloch was now striking at the heart of the frame-up, namely, the claim of Greenglass that he had the scientific ability to comprehend and report to Rosenberg the entire complicated plans of the Nagasaki atomic bomb merely from "snooping around" scientists at Los Alamos, and that five years later he was capable of remembering and preparing an exact replica of the cross-section. Thus, in Bloch's challenge, Judge Ryan had before him a veritable powder keg. Apparently, it was not within his courage to grant the motion for the hearing, nor even to grant a stay of execution so that the matter might be heard in a higher court.* Instead, he found an "out" in an affidavit signed by one of the FBI detectives who had originally "interviewed" Greenglass. This affidavit, submitted by the prosecution, reads in part:

"Under no circumstances and at no time did I ever make available to Greenglass any books or scientific texts nor any other material pertaining in any way to atomic energy. To the best of my knowledge and belief, no other agent of the Federal Bureau of Investigation furnished any such material to Greenglass."†

What have we here? Merely a cautiously formulated statement in which a certain FBI detective swears that he did not *personally* commit an illegal act, and that he does not happen to know *personally* about such an illegal act having been committed by some other FBI

*Note: This point was only one of many grounds offered by the defense in behalf of its motion. In later chapters we will refer to others.

†The above affidavit was signed and sworn to by John W. Lewis, of the FBI. It was accompanied by another affidavit signed by Leo H. Frutkin, also of the FBI, who confirmed it as "true and correct to the best of my knowledge and belief." (See Transcript of Record, No. 687, pp. 146-148.)

detective. There is nothing about the possibility of one of the prosecutors furnishing material to Greenglass. There is nothing about Gold doing the same. In short, as Mr. Bloch pointed out in his reply:

". . . There is no denial that *some other Government official*, either on the prosecuting staff or otherwise working for or with the FBI, did make available to Greenglass the coaching material, *or that he was otherwise coached.*" (Emphasis added.)

What possible reason was there for Gold and Greenglass to be lodged in the same prison unless it was for the express purpose of their collaboration? The Tombs is not a Federal prison. Gold had been arrested in Philadelphia, had pleaded guilty there and was sentenced there. According to the record, up to the day of Julius' arrest on July 17 Greenglass had been held for a full month in the Federal Prison on West Street. On or about July 18 he was transferred to the Tombs. Immediately after Gold's plea of guilty in Philadelphia on July 20, he was also removed to the Tombs in New York City instead of to a prison in Pennsylvania. It is more than suspicious that, within a period of forty-eight hours, "the two were lodged in the same prison" together for the entire period before trial.

On the basis of the disclosures quoted above, one can readily visualize the activities of these two bunkmates lolling about the dormitory up there in "Singers' Heaven" all through the latter half of 1950, and throughout January and February of 1951; indeed, up to the very moment they testified in March. To Gold "Operation Atom Spy" must have seemed like some great government project, with himself appointed as the direct representative of the Department of Justice and the Federal Bureau. One can see him going about the prodigious task of coaching the slow-witted Greenglass — who, as a high school student, had failed all eight out of his eight courses in elementary science — with all the methodicalness of the laboratory technician.

In his brief case there was "a big, loose-leaf notebook,"* and whenever the FBI came to escort him over to their suite or to the offices of the prosecution, one can see him, brief case in hand, striding out with a jaunty step of pride. One can see him returning from his various conferences, his brief case crammed full of scientific books on nuclear fission such as the Smyth Report and working far into the night making copious notes and sketches for Greenglass to study. In addition, the guards would deliver other scientific books with no comment as to who had sent them. One can see Gold, with infinite

*See Chapter 4, quotation on p. 79 and footnote.

patience, describing to his protégé the implosion principle of the "High Explosive lens," and going over these portions of his future testimony again and again. And one can visualize Greenglass painfully copying diagrams from Gold's notebook, their various parts marked "A"—"B"—"C"—etc., and finally memorizing the primitively worded description:

" 'A' is the light source which projects a light through this tube 'E' . . . Around the tube it is a cross-section of the high-explosive lens 'C' and a detonator 'B' showing where it is detonated. . . . "•

Following each period of Gold's coaching, one can readily imagine the test quizzes Greenglass was put through by Roy Cohn. Under cross-examination, one detects the reason for Greenglass' evasiveness when he is asked how many times he was "brought down to [the] Federal Building." How many statements had he given the FBI or other Government officials? How many times was a stenographer present, and were his answers "taken down and transcribed"? Here is his reply:

[Greenglass]: I couldn't give you an estimate. . . . You got me. I really — I can't give an estimate of times on things like that.

Previously, he had been asked about the presence of his attorney at such examinations, and in his squirming about he quite clearly exposes the countless number of conferences (read rehearsals) which he had with the prosecution:

"There were other times my lawyer was present. I don't remember whether it was the third time, fourth time or *the fifteenth time*." (Emphasis added.)

In a later chapter dealing specifically with Greenglass' claims that he had prepared the various replicas (Government Exhibits 2, 6, 7 and 8) purporting to show the atomic secrets he had prepared for Gold and Rosenberg without the assistance of coaching, books, diagrams, drawings, etc., our analysis will prove that it was *impossible* for him to have done so, and that such assistance must have been provided him by Gold while the two were lodged together on the eleventh floor of the Tombs.

•This is an excerpt from Greenglass' direct testimony describing one of the replicas he had prepared for the trial. (Record, p. 465.)

v

In early October of 1950, the prosecutory in its preparation of the case again one hand it had Elitcher, the Greenglasses Gold stood ready to support the Greenglass his visit to them in Albuquerque), the Elitcher's testimony, whether against R Saypol's objective, therefore, was to turn witness and thus insure a conviction. Intractable, it was now necessary to induce additional pressure would bring him around to be made to find another witness in his and preferably another C.C.N.Y. classmate.

Such a "prospective witness" had been William Perl, and there was every reason to prove to be as compliant as Elitcher. Three times before the Grand Jury, and had shown definite signs of submitting.

Back on August 18, on his first appearance Lane had questioned Perl "as a witness, naturally for the Government, Perl had no knowledge of the Fifth Amendment, and had known Rosenberg and Sobell after college days, knowing Helene Elitcher, as well as a Sidorovs, named Michael and Ann Sidorovs.

Thus Saypol knew he had four corners. Elitcher could be gotten to swear that he was a close friend of Rosenberg and Sobell, Y.C.L. Helene Elitcher could provide Perl at a little Christmas party in the college days. As for the Sidorovich couple in the middle 40's, there the FBI had to testify that he had seen them in the

•From an interview between Mr. Philip J. Nease, and this writer. (See also Eugene D. Sledge, *Nation*, June 20, 1953. Also, Government Exhibit in which Perl is included.)

†At Perl's long-delayed trial in May, 1953 Elitcher and the Sidoroviches were through excerpts in this section are from the FBI Courthouse in Foley Square, New York (

on was faced with this in-
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and Gold. However, while
as testimony (dealing with
re was no one to support
Rosenberg, Sobell or both.
Sobell into a prosecution
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ound. Hence, an effort had
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ite of Rosenberg.

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upon the last occasion he

ance before the Grand Jury,
not as a defendant."* Fortu-
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denied being able to recall
In addition, he had denied
pair of friends of the Rosen-
rich.

its of perjury to slap on Perl.
he knew Perl, not only as a
but also as a member of the
testimony that she had met
Rosenberg home long after
ple, who had moved to Clevel-
I had found a witness willing
company of Perl.†

Wittenberg, Perl's present attor-
nel, "Guilty of What?" in *The*
list of witnesses in Record, p. 52.

the two counts involving Helene
n out by the jury. Note: Quoted
Perl record, available at the U.S.
City.

But the FBI dossier on Perl contained further information, and it was this that made Saypol's hopes most sanguine. First, there were Perl's scientific qualifications. He was "one of the nation's leading experts on jet-propulsion" and had done highly important research in "aero-dynamics problems" for the National Advisory Committee for Aeronautics, a government agency in Cleveland. Right now, he was teaching physics at Columbia University, but only a year ago he had applied for a post with the Atomic Energy Commission. Hence, if he could be linked to the Rosenberg "atomic spy ring," the case would be strengthened by having at least one physicist equipped to understand nuclear theory on a level with Dr. Klaus Fuchs.

Second, there was enough on Perl to ruin his career and to have him harried without end before various investigating committees. For his dossier revealed that:

"... He had sworn falsely in a loyalty questionnaire of the National Advisory Committee for Aeronautics that he had been married in 1944 and divorced in 1946."

It was known that Perl had neither been legally married nor divorced in those years. To be sure, the infraction was a mere technicality because Perl had not wanted to risk mentioning a marital status without benefit of clergy at the time of his employment. But in view of another false statement (one of omission) in his Atomic Energy Commission questionnaire, Saypol was certain he could bring considerable pressure to bear on Perl.

This latter sin could be made to look more political. Not only did it involve a subversive association, but Perl had attempted to conceal it under oath. When he had listed all the places he had lived in during the preceding ten years, it appeared he had failed to include an address at 65 Morton Street in Greenwich Village. And this had turned out to be a "contaminated" address, since he had subleased the apartment from one Alfred Sarant, who turned out to be a friend of Julius Rosenberg!

In addition, Perl's "guilt by association" could be compounded, because investigation disclosed that Sarant had not only shared that same apartment with a Joel Barr, another classmate of Rosenberg, but also that Barr had sailed for Europe early in 1948, which action could be construed as "flight."* And finally, the file revealed that

*See Rosenberg Record, pp. 1199-1200, wherein Saypol utilizes the technique of innuendo by suddenly demanding of Julius this "deliberately prejudicial" question:

"Don't you know that he [Sarant] is in Mexico?"

The record shows that Mr. Bloch instantly moved for a mistrial on

Perl had not only flatly denied ever being a Communist, but appeared sufficiently anti-Communist to warrant belief that he would prove responsive to the slightest pressure.

And so, when Perl was first summoned before the Grand Jury on August 18, Saypol had been rather surprised at Perl's stubborn stand. It was true he had opened the door to a perjury prosecution in denying that he had known Rosenberg and Sobell after they had been graduated from C.C.N.Y., but Saypol preferred not to use the open threat. There was no hurry and it was best to let him stew a while. Later, if necessary, the pressure could be increased.

On September 11, this was done by summoning him again before the Grand Jury. Saypol had reason now to congratulate himself on his patience. Whereas on his first appearance Perl had sworn he did not "know" Rosenberg or Sobell, now he was softening up. He was beginning to have "an awareness" which he claimed he didn't have before — "a recollection" of the two youths he had once gone to school with, twelve to fifteen years earlier. Moreover, he was admitting fear that acknowledgment of any connection between himself and Communists would prevent him from pursuing his career as a physicist.

Despite these incriminating admissions, Saypol still held back from direct threats. Nonetheless, polite visits were paid Perl by FBI agents who "warned him" (as he later testified at his trial) that: "Rosenberg and Sobell are going to fry."

Three weeks later, on October 4, Saypol tried again. This time, Perl appeared fully tree-ripened. Whereas previously he had denied that his relations with Sobell had continued "into the 40's," now he was admitting that they might have kept in touch for a while after graduation.

Saypol was content. Perl was still insistent he had no information about espionage, but there were still many months until trial. . .

vi

On October 10 Morton Sobell was indicted as a co-conspirator of the Rosenbergs. In this indictment (No. 2) David Greenglass was named as a defendant; however, Ruth still remained a free woman. This indictment listed the same eleven overt acts contained in that of August 17 (No. 1), and concerned the alleged crimes of *only* the

grounds that the question was "highly inflammatory." The motion was denied despite the fact that Saypol had no evidence that Sarant was in Mexico. Here is Kaufman's justification of the question:

The Court: There is rarely a question that can be asked that isn't prejudicial.

Rosenbergs and the Greenglasses. There was no mention of the five "conversations" and no overt act whatsoever on the part of Sobell.

Since Sobell's attorneys felt this to be in direct violation of his constitutional rights, they made a motion to dismiss the indictment. In addition, there were the Federal Rules of Criminal Procedure which called for a "written statement of the essential facts," or, in lieu of it, the right to inspect "the minutes of the Grand Jury" to determine if there had been presented any legal testimony or evidence justifying the indictment.

We recall that Elitcher (the *only* witness who could possibly have implicated Sobell) appeared before the Grand Jury on August 14, and that the August 17 indictment (No. 1) failed to include Sobell. Bearing this in mind, let us turn to the record to see when he next appeared before the Grand Jury:

Q. . . . When did you testify before the Grand Jury the first time?

A. [Elitcher]: The middle of August [1950].

Q. When was the second time?

A. About a month ago. Perhaps a little longer . . .

Q. That would be January or February, 1951, approximately?

A. Yes.

Since there could have been no incriminating testimony presented to the Grand Jury against Sobell between August 14 and October 10, it follows that the October 10 indictment (No. 2) had been issued without grounds and solely at the prosecution's *request*. Hence the very essence of justice was subverted. For such an arrangement would make of that independent body of sixteen to twenty-three citizens called the Grand Jury merely a rubber stamp of the prosecutor. It would make him a law unto himself. And in a little while we shall see why Saypol resisted every attempt on the part of Sobell's attorneys to inspect the minutes of the Grand Jury. We shall see that it was not only because he had put off indicting Sobell until all other means of coercing him had been exhausted, but also because Elitcher did not involve Sobell in any crime until the end of 1950, or about four and a half months *after* the kidnapping.

A few weeks after Sobell's indictment his wife found a purchaser for their house. Fortunately, there had been no large loss in the sale and they recovered almost all of their equity of the original \$4,500. But the money had to be turned over to the attorneys for legal ex

penses. She had sold the car, too, and planned to take care of the children at least until a few years' needs, which were modest since she was married. As a mother, she would have what money she could for the furniture.

Some days before, after the Elitchers' house was sold, they had offered to buy some of the furniture. Unaware of Max's secret interviews with them, it was quite nice of them to help out this way. They had suggested that Max take out their half in furniture.

Helen came to settle up with Max on the furniture. Helene had chosen. He read his list to her, room to room checking the items: the pictures (Max had built them himself), the baby folding chair, the stairs, the garden chaise, a globe of stepping stones which they had bought for the trip, and which were quite unused.

Helen thought Max was striking quite a deal. Little she had received for the washing machine that some of her things, especially her jewelry, were owned by friends. She thanked him gratefully and was glad to do them the favor. Some days later, of the furniture, the Elitchers offered to let her have it and they dropped over to pay her \$5 for the new owner.

That was the last time Helen saw Max. He appeared in court the following March, wearing a coat. And even when they greeted her in the corridor just before trial started, she did not know that it was to be Max's testimony that he had been in prison for thirty years.

vii

"With all due modesty,
as somewhat experienced
— U. S. Attorney General

In our study of modern frame-up we find a single master-mind, villainously plotting and issuing personal commands to each of his various

...ed to use the proceeds to
...ter the trial. For her own
...iving in with her husband's
...could realize from selling

...had heard that the house
...the furnishings. Helen, still
...the prosecution, had thought
...way, even though no cash
...she go ahead and sell the
...common, and that they would

...the various items he and
...er as the two walked from
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...gates at the foot and head
...the world and the flagstone
...the back yard just before

...a bargain, considering how
...machine, but she was happy
...laughter's piano, would be
...fully and Max said he was
...ter, when she sold the rest
...uy another couple of chairs
...em and hold the key for the

...aw the Elitchers until they
...Helene wearing a new fur
...with a friendly smile out in
...was still completely unaware
...was to send her husband to

...y. I feel free to refer to myself
...ned in prosecution."
...ing Saypol (Record, p. 1621)

...have decried the role of a
...each and every step, giving
...lieutenants and generally

manipulating all the various strings attached to his major puppets. If it were so, we pointed out, perhaps the frame-up would be more logically constructed or less anarchic. Nevertheless, despite the many participants, there is, of necessity, a general coordinator — someone who undertakes final responsibility for the case as a whole.

Such, to be sure, was U.S. Attorney Irving H. Saypol, honored by *Time* magazine as the nation's "Number One legal hunter of top Communists." Only forty-five years old, he was already nationally famous for his role in the convictions of Alger Hiss and the eleven Communist leaders. Later were to follow the trials of Abraham Brothman and William Remington. The Rosenberg case was to be the apex of his career as a prosecutor. Almost immediately thereafter he was chosen for the bench of the New York State Supreme Court at a salary of \$28,000 per year, the highest pay received by any judge in the United States.*

Even at the early age of twenty-two, Saypol manifested the strongest political ambitions. Immediately after law school he managed to obtain through the Tammany machine a position as Assistant Corporation Counsel in the Law Department of the City of New York. In 1944 he was appointed Chief Assistant United States Attorney, and after five years as such was promoted to U.S. Attorney. In 1949 we find him leading such diverse fund-raising campaigns as the United Jewish Appeal and the Federal Division of the Salvation Army Drive.

Even if one studies him only through the pages of the record, one notices his complete lack of distinction as a lawyer. In the course of the trial analysis, examples of the crudeness, surliness and bluster of the ambitious politico depending on the prejudices of the moment to win his case will be seen frequently. Not the least of his coarseness lies in his penchant for tasteless punning. Here is an illustration as he questions Julius Rosenberg during cross-examination:

Mr. Saypol: Do you remember having been asked this question...?

"Q. Did you notice anything about Ruth's reception of you in terms of coolness or warmth?

"A. Well, she was cool."

Do you remember giving that answer?

A. [Julius]: That is correct.

*This was a higher salary than that paid the Chief Justice of the U.S. Supreme Court. Note: We have already mentioned the phenomenal rise of Roy M. Cohn to the position of chief counsel to the McCarthy Committee, and the promotion of Myles Lane to full U.S. Attorney.

Q. Is that why you told him [David] to go home and take a shower? You wanted him to cool off, too?

The Court: Oh, let us not have that. Get along, Mr. Saypol.

With the prosecution's last witness, the passport photographer Schneider, later proved a perjurer, we have this sample as Saypol interrupts the defense's cross-examination:

Mr. Bloch: Now there are some Saturdays when you do a rather rushing business?

A. [Schneider]: Not a rushing business.

Mr. Saypol: Did you say "a Russian business" or "rushing business"?

The Court: Let's get on. Try to restrain your desire to be another Milton Berle.

Saypol's legal staff consisted of his chief assistant Myles J. Lane, his confidential assistant Roy M. Cohn, James B. Kilsheimer III, John M. Foley and James E. Brannigan. The public is already familiar with the foibles and the reputation of Roy Cohn, but what we are concerned with more than individual personalities is the "mind" of the prosecutor and the "psychology of prosecution" generally.

Fortunately, in the Mooney case, there is the voluntary confession of one James Brennan, an assistant to the notorious Charles Fickert, who was chiefly responsible for that frame-up. To Brennan was assigned the task of prosecuting Warren Billings, accused together with Mooney but tried separately.

After Billings' conviction, Brennan was so tormented by conscience that he not only resigned his post, but was courageous enough to give an interview to the famous newspaper editor Fremont Older, in the *San Francisco Call* in November, 1920. Here are its salient features:

"Had I been a juror sitting in the case, and heard the evidence which I myself presented, I could not and would not have voted for Billings' conviction. . . .

"I took what witnesses the police department furnished, and tried to make a case against him. Any prosecutor would do the same. Their stories, told to me, after interviews with the police, seemed inconsistent in many points, highly incredible in others. . . .

"Like all prosecutors, I was blind to all but the pursuit — the chase which would end with the conviction of my quarry. I was cursed with the psychology of prosecution. Never again shall I be a prosecutor.

"To my mind, and it is in the mind of every district attorney and his assistants, conviction is the only goal. . . . He is a keen-scented hound on a trail. He has become obsessed with his case.

"Given the slightest evidence supporting his theories, which he has already framed in his own mind, he weaves these into a web of circumstances which are oftentimes damning to the accused, and against which even the innocent may not be able to stand. . . .

"... He is biased toward conviction, and this is uppermost in his mind. . . . He sees as his goal political preferment, applause of his constituents, his personal aggrandizement. This can be gained only by conviction of the accused, against whom the public mind in sensational cases has already been poisoned. . . .

"The case has been a nightmare since the date of the trial. . . . In view of my personal doubt as to the guilt of Billings, I regard it as an evil day in my life that I was given charge of [his] prosecution."

As for Fickert himself and the lengths to which he went to obtain the legal murder of Mooney, there happens to be a recording in his own words. This sensational recording came about fortuitously as the result of a "planted" Dictograph in Fickert's office by order of the United States Secretary of Labor, because of Fickert's role in a ring of immigration-smugglers selling Chinese coolies to mining and farming interests. Subsequently, it was officially revealed in the Densmore Report printed in House Document No. 157, 66th Congress. Here are some excerpts as we hear Fickert conferring with his aides on the Mooney case:

"Cunha (Assistant District Attorney): Chief, if you can get a witness who will put Mrs. Mooney at Steuart and Market Streets, I don't give a damn if you put her there in a balloon.

"Fickert: I think I can put her there in a taxi-cab. It looks as though we had the witness.

"Cunha: If you have, Chief, I will put that s--- of a b---- Mrs. Mooney on trial again and I will convict her by every rule of the game.

"Fickert: I am going to keep everything quiet so there won't be any leaks.

"Cunha: That's the stuff, Chief. . . ."

*Judge Griffin, who presided over the Mooney trial and later realized "he had presided over a trial that was a miscarriage of justice and law" and strove valiantly for a "retrial." (Ernest Jerome Hopkins, *op. cit.*)

"Fickert: That s--- of a b---- Griffin would have had Mooney shoved off the trial."

"Mulhall (a deputy U.S. marshal): breaks, we will go downhill so fast th

"Fickert: [An undistinguishable ge

Should it be thought that we seek to same brush, such is not the case. To be sure of conscientious and honest prosecutor Brennan states, start out with the set purg person in prison." But it is Mr. Brennan prosecutor is basically "biased toward the chief motives political preferment an

However, Charles Fickert, who once w in the San Francisco teamsters' strike, incentives. These are best disclosed by his testifying in 1930 before the Supreme Co

"So far as I was concerned, I was witnesses at all. I was satisfied Mr. M upon his activities alone. . . .

"I was satisfied to have Mooney live is, without any direct connection with the original.)

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"FICKERT SAYS ANARCHY WILL

Into the Mooney "ring of conspirators" ous "Russian Jew," who, of course, was not Mooney himself, a Chicago-born Irishman Californians to be "a Russian Jew," and gallows on the theory that it was "a social; remotest connection with the bombing or

In Greenglass' testimony we will see create "a Russian" out of a "man" whom

**Ibid.*

viii

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On the 13th of November, U. S. Attorney Irving H. Saypol made his opening statement in the Brothman trial. A concise picture of the political atmosphere in the courtroom was reported by the *New York Times* the next day:

"Mr. Saypol said that the jury would hear evidence of espionage for the Russian government and activities in behalf of the Communist Party.

"William W. Kleinman, defense attorney, repeatedly urged the jury not to be swayed by prejudice."

The trial began with the testimony of FBI detective Shannon, and it was established that although Brothman had "denied being a member of the Communist Party," he had admitted belonging "briefly to the Young Communist League" while a student at Columbia University in 1931. When the defense objected to the introduction of such prejudicial testimony, the *New York Times* reported further:

"... Assistant U. S. Attorney Roy M. Cohn declared that the Government held that the affiliation of both defendants with the Communist Party was the motive for their acts."*

And so began the "try-out" for the big Rosenberg atom-spy spectacle scheduled to take place four months later. As was pointed out in the chapter on Gold, it was Judge Kaufman who presided at this trial, and Saypol & Cohn who were its producers and directors.† With Gold and Bentley as its star performers warming up their cues and stage presence for the Rosenberg trial, we will soon see that this analogy to show business is not at all inappropriate.

To begin with, why did Saypol himself — the most important prosecutor in the United States — take the trouble to prosecute this

*Brothman's co-defendant was his former secretary, Miriam Moskowitz. Note: It will be recalled that the charge was not espionage, but a conspiracy to obstruct justice in having lied to a Grand Jury in 1947 about their activities with Harry Gold. Brothman was charged with a second count: that he influenced and intimidated Gold to give false testimony before the Grand Jury on July 31, 1947. This second count was later thrown out by the Court of Appeals. (The excerpts of testimony in this section, unless otherwise stated, are from the Brothman trial record, available at the U. S. Courthouse in Foley Square, New York City.)

†In addition to Cohn, Saypol "was assisted by Thomas J. Donegan, Special Assistant to the Attorney General." (*New York Times*, Nov. 23, 1950.)

comparatively unimportant case? And how is it that, of all the fourteen judges presiding in the Southern District, it is Judge Irving Kaufman who happened to be the one chosen for both trials? The charge against Brothman involved a relatively minor infraction of an almost obsolete statute. It was not espionage, not a Smith Act violation and not even perjury. The maximum sentence was only two years. In short, why was this "try-out" necessary?

Initially, let us see how Saypol and the FBI used the Brothman trial to build up the highly charged atmosphere with "advance publicity" for the big show. These were the headlines in the conservative *New York Times* on each consecutive day of trial:

"DEALINGS WITH SPY ALLEGED AT TRIAL

"... Official Washington Sources Say Brothman and Gold Try to Get Atomic Secrets"

"BROTHMAN A SPY, SAYS MISS BENTLEY"

"SEMENOV HIS BOSS AS SPY, SAYS GOLD"

"SOVIET GRATITUDE TO SPIES DEPICTED"

"ATOMIC SPY TELLS OF PERSUASION TO LIE TO U.S. GRAND JURY IN 1947"

"SPY CASE IS GOING TO JURY TODAY"

"CHEMIST, WOMAN AIDE, GUILTY, ESPIONAGE JURY HERE FINDS"

Spies — atomic secrets — Soviet espionage! And yet, the record shows plainly that no espionage whatsoever was charged.* As for the inflammatory issue of Communists as spies, we have already seen the Government's position advanced by Roy Cohn that "affiliation" alone was sufficient proof of motive. Thus, it was in the Brothman trial that the prosecution laid the foundation for the Rosenbergs' motivation. And thus, the charge of *Communist Party membership became admissible evidence to show "connection" between motive and espionage, according to a ruling of Judge Kaufman.* This, despite the testimony of Gold that he not only "had never joined the Communist Party," but that he "didn't like" Communists and always "thought they were a lot of wacked-up Bohemians."

*Here are Kaufman's own words to the jury:

"There is no claim made in the indictment that Abraham Brothman engaged in espionage. It is not charged here that the material was of an illegal nature or that it was secret or that it could not have been found in textbooks or magazines on engineering or chemistry."

(Brothman Record, pp. 1129-1130.)

In view of these declarations, nothing could be more fantastic than Gold's claim that he was told by his first Soviet superior "never to read the *Daily Worker*." (Why should a Soviet superior tell one of his couriers — and an anti-Communist — not to read the *Daily Worker*? This would be as ridiculous as J. Edgar Hoover telling one of his FBI undercover men attending Communist meetings not to pin on his lapel his FBI credentials.) But here within this very absurdity we find the pattern rehearsed for Ruth Greenglass' later testimony, in which she has the Rosenbergs confiding in her "that they don't buy the *Daily Worker* any more" now that they've become involved in atomic espionage. In other words, it sounded good at the Brothman trial, so why not do it again at the Rosenberg trial?

Equally fantastic was the testimony of Bentley and Gold regarding the collection of Communist Party dues from Brothman as part of their spy instructions.

Let us trace the weird procedure of these alleged payments: Gold, replacing Bentley as the "new contact" for Brothman, is instructed to collect his monthly dues. Thus we find Brothman, an American party member, paying them to Gold, an anti-Communist, who turns them over to the Amtorg official, Semenov, a Soviet citizen. The latter then delivers the dues to Bentley who has been instructed to have nothing to do with party functions. Nevertheless, she transfers the dues to Jacob Golos who was forced to register as a foreign agent for the Soviet government some two years earlier, in March of 1940! In fact, at this very time he is under close surveillance by the FBI because he has been "accused of being engaged in foreign espionage" by the Attorney General's office!*

Despite this knowledge, Golos takes the risk of delivering Brothman's dues to none other than Earl Browder, leader of the American Communist Party. Here is Gold's testimony on the ardors of this assignment:

"Under instructions, I asked Abe to pay his Communist Party dues, in which he was in arrears, to me, and Abe said that he was short at the time but that he would try to arrange it."

Assuming all this to be true, one wonders what great sum of money could have been involved in this transaction requiring no less than six important intermediaries. In all the ex-Communist testimony made public, we rarely find the average dues higher than 25 cents a week. There is also said to be a graduated scale paid according to one's income, but in view of what Brothman earned during this

period, his dues could not possibly have been three dollars per month. It seems strange as Brothman — allegedly praised by the FBI in the "Buna-S" process a secret "equivalent" of "equivalent" — should be paying dues arrears of six or seven dollars.

And it seems stranger still that the FBI should gamble the safety of so large a segment of the country on such a matter, when it was supposed to be in contact to have nothing whatsoever to do with the Communist Party!

Let us now glance at the type of testimony based on their charge that Brothman and Gold were in possession of atomic secrets. The *New York Times* gives

"Testifying readily... Gold said he had told him in December '41, that he had a complete set of plans for a military aircraft engine to be built in Tennessee.

"This reference, possibly to the A-50 engine, was not developed further except by 'split-second' arrangements to pick it up over to 'Sam.'

"No testimony was offered to show that he delivered it." (Emphasis added.)

First, Gold does not even say he saw Brothman told him about them. Second, although there were arrangements to deliver these plans to Brothman, no delivery was ever made, and no explanation was given that all of Gold's "Soviet superiors" had collected dues that they neglected to ask for the plans of the atomic energy plant at Oak Ridge.

Wondering how Brothman managed to get the plans, this writer obtained an interview with Hendrick Company, a chemical engineer at the time. When the trial record was shown to him, he expressed incredulity. How could Hendrick Company

*"Buna-S" concerned the manufacture of which *Week* discloses was in full production in 1941 before it was produced in the United States on Gold.)

*See article "The Bentley Story" in *The Nation*, Jan. 30, 1954.

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such vast plans, when it was only a small iron manufacturer which fabricated boilers, gratings and perforated metals? Moreover, when Brothman was employed there, the company never did any "classified" government work.* And even if Brothman had managed to obtain such "a complete set of plans," they could not have been on his desk or on one hundred desks. Indeed, the *thousands* of rolls of blueprints for such an installation would fill an entire office building!

One final illustration of the spy-thriller testimony which Saypol rehearsed at the Brothman tryout is worth examination. In the chapter on Gold, we recall how the FBI belatedly searched his basement and how they found the folder so conveniently marked "A.B.'s stuff." And how, in this folder, so carefully retained by Gold for nine years, they came upon that certain "small white card."

It was with this card that Saypol was enabled to demonstrate (1) that Gold and Brothman were spies as far back as 1941, (2) that the two had common Soviet superiors who arranged the first illicit rendezvous, and (3) that this was the actual manner in which they had originally met — and not in the harmless manner which they had falsely explained to the Grand Jury in 1947. Thus, this card was as important in connecting Brothman and Gold through their Russian superior, Semon Semenov, as the Jello box was in connecting Gold and Greenglass through the Russian Vice Consul Anatoli Yakovlev. Here is how Saypol presented this:

First, he had Bentley testify that her lover, Jacob Golos, instructed her one day to arrange "a new contact" for Brothman, and that she conveyed the following instructions to him: That on a certain evening Brothman was to drive to West 27th Street, where he was to park his car and wait until:

"... At the appointed hour, the new contact [briefed by Semenov] would slide into the front right seat.

"I then asked Mr. Brothman to give me the license number of his car so that license number could be turned over via Mr. Golos to the new contact."

*There were two defense witnesses who confirmed this beyond any dispute. One was an executive sales manager for Hendrick Company, who testified that while Brothman had been employed, the firm had never "handled any secret or confidential processes."

The other witness, a representative of the prominent McGraw-Hill publishing firm, testified that all of the so-called industrial secrets Brothman was accused of passing to the Russians could have been found in the New York Public Library many years preceding the first meeting of Gold and Brothman.

Here one wonders why Gold could not have been simply told to meet Brothman in his office, because, in Gold's later testimony, we find him going up to Brothman's office on numerous occasions. Apparently, Miss Bentley must have pondered this too and decided that the tale sounded a bit contrived, for she inserts this "built-in" explanation:

"Mr. Brothman objected again. He said he did not understand why he had to meet people via that odd way. Why couldn't I or Mr. Golos do the introducing?

"I explained to him again that this was a decision of the Communist Party and that he must abide by it."

Here is something unique. Suddenly it is the American Communist Party which makes decisions about espionage, and not the Moscow spy apparatus as represented by Golos and Semenov!

Continuing with Bentley's testimony, we find that the dutiful Brothman "ended by agreeing," and so a definite day and hour were set for his rendezvous with his new brother spy, Gold:

"The new contact was to identify himself, not only by getting into the car, but by bringing greetings from me, or in other words, greetings from Helen, since that was the name I used at that time."*

Now our impresario, Saypol, has his other star performer, Gold, complete the rendezvous, by having him testify not only as to the exact date it took place, but also the day of the week, despite the nine-year passage of time:

Q. [Saypol]: Tell us what you did that night.

A. [Gold]: That night I left work probably about 6:30 or so, went to the Pennsylvania Railroad station in Philadelphia, and from there went to New York.

The Court: This is what night?

The Witness: The night of September 29, 1941, a *Monday night*. (Emphasis added.)

It is important to note this exceptional feat of memory, because Mr. Saypol later insists that Gold had "only a fragmentary recollection" of the meeting. As for the question put by Kaufman, and Gold's naming of the precise day, let us bear this point in mind carefully.

*Here the pattern is rehearsed for Ruth Greenglass' subsequent testimony about Julius' "greetings" to be carried to David via Gold.

Arriving in New York, it is Gold's further testimony that he reached "the appointed spot" on West 27th Street about fifteen minutes earlier than the time arranged, 10 P.M. And then:

[Gold]: . . . A car came along. I withdrew the card on which I had written the instructions . . . and checked the license number against that of the car. The man inside seemed startled but he became assured when I gave him the rest of the recognition signal as it was written on the card. I said, "I bring regards from Helen," and then I asked how was his wife.

And now Saypol, feeling the need to bolster up the testimony of his accomplice witnesses with something more tangible, introduces the "small white card" and attempts to have it accepted as evidence in order "to corroborate" Gold's oral testimony.* Here is that portion of the card later read to the jury:

"Mon 10 P.M. — N. 27 6 and 7 Ave License No. 2N9088
Abe — Give regards from Helen — and ask him about his wife Naomi and his baby girl."

One need not be trained in the legal profession to see the absurdity of such corroboration, for the card was in Gold's own handwriting! As pointed out in the chapter on Gold, he could easily have prepared it in his basement. It is, at best, Gold corroborating Gold. How, then, can it be admitted as *evidence*? And yet, despite violent defense objections, we find that Judge Kaufman does admit it as Government Exhibit 10. How? By a fancy bit of sleight-of-hand and a rule known as "past recollection recorded." To establish this, Saypol yields to Kaufman who patiently leads Gold through the following pretense:

Q. [Kaufman]: Mr. Gold, as you sit here today, do you remember the exact day of the week, not the date — you gave us the date, September 29, 1941 — the exact day of the week and the exact time that you were to meet Mr. Brothman?

A. *I do not*, your Honor. (Emphasis added.)

*Although in a Federal court accomplice testimony requires no corroboration, some twenty-one states have recognized this practice as archaic. California requires the "corroboration of two [independent] witnesses"; New York is another such state. This safer code is summed up by the *Columbian Law Review* as follows:

"While an accomplice . . . is a competent witness if his own testimony is corroborated, he cannot corroborate the testimony of another accomplice." (*Op. cit.*, p. 236.)

But we have just seen Gold state without hesitation that it was a *Monday night*! That the defense could not remember this detail is understandable. The defense failed to remember this detail is understandable of one day in between (which may have been a trick was so brazen that the defense attorney's testimony comes uncertain. In any event, the record confirms

Mr. Kleinman: The witness has stated that he rather he knew the date but he did not know

The Court: He knew the date, September 29, 1941, not know the day. (Emphasis added.)

Of course, Judge Kaufman is deliberately misleading Kleinman, first by having introduced the second by concealing Gold's testimony in which day as "a Monday night." Furthermore, he repeats

The Court [cont'd]: He did not know the hour. . . . He does not remember the day or hour. . . .*

Thereafter, for seven solid pages, Kaufman again continued this sham of unrefreshing Gold's "past recollection recorded" in order to comply with the rule, namely, that in order to remember the time or day, then the card could not be used. While, the confused jury was convinced that the card must be the most damaging evidence possible, man, else why should the defense contest its admission? To be sure, Judge Kaufman was shrewd enough against possible error by the following explanation:

" . . . It is not admitted as an independent piece of evidence. . . ."

"These items, therefore [contained on the card] are to fill in missing links in the witness's story, not independent evidence."

But this is fulfilling only the letter of the law. I (ironically, Kaufman's own words) on the jury damage had been done the defendants. Moreover, the evidence, it was carefully read to the jury, line by line

*Even if we assume the card to be genuine, Gold could not have known the date just before trial and seen the time on it. At the time he met Brothman in New York, he could not have known the date.

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until there could be no doubt that it corroborated Gold's oral testimony, to wit — that he had been given these instructions by his Soviet superiors, that the meeting had taken place, and that the card had been discovered by the FBI in Gold's basement.

For further evidence of Judge Kaufman's loading the dice in favor of the prosecution, here is the weight he gave this card in his charge to the Brothman jury:

[Kaufman]: You then heard the testimony of Harry Gold that he, a chemist, was the new courier.

There is in evidence Government's Exhibit 10, on which is recorded the license number of the car into which Gold entered on September 29, 1941; that Brothman was in the car; that Gold said the words found on the card; and that Brothman accepted Gold as his new courier.

Note how, in glossing over the fact that it was not corroborative evidence, Kaufman nevertheless makes it corroborative.

Some final questions regarding this card: Why would a veteran spy like Gold need to write down such precise information? Why would he write down the "recognition signal" about bringing regards from Helen and asking about Brothman's wife? Considering Gold's photographic memory, with which he can recall a specific day of the week nine years back, why should he need to write anything down but the license number? According to his testimony, the arrangement was made only a week or two previous to the rendezvous. Couldn't Gold remember the time and day of an appointment only a week or so away? Or a street between 6th and 7th Avenues? And why is it Gold never claims to have used such a card to remember his other numerous meetings with Brothman? In all of these, he can remember not only the time, the names of streets, but even the compass points! Here is his alleged third espionage meeting with Brothman in October, 1941, also *nine years* before trial:

Q. Do you recall what time of the day or night it was to be?

A. It was sometime around 8 P.M.

Q. Did the meeting take place?

A. I came to New York and went to the *southeast corner* of Dey and Church. (Emphasis added.)

If Semenov told Gold he was to meet a man named "Abe," why did this encyclopaedic "brain" need to write down that name so carefully? Or that of "Helen"? In fact, as Bentley herself admitted, why was Gold required to meet Brothman in this "odd way" at all?

Here is their second 1941 meeting, when Gold claims "the exact minute was specified" for 8 P.M. and that he entered the rendezvous restaurant, Child's, "on the west side of Columbus Circle." And after waiting for Brothman an hour and a half, Gold continues:

"In the course of that time I made three phone calls to the Barclay 7 number in the Hendrick Company. . . . On each occasion Abe answered and said that he was just on the point of leaving."

And so we learn that Gold did not hesitate to telephone Brothman *at his office*.^{*} Why, then, didn't Semenov secure the Barclay number from Golos and simply give it to Gold to arrange his initial meeting by himself? Why did it have to be done with all this Dick Tracy intrigue — the checking of the number on the card against the license number on a dark street, the bringing of regards from Helen, the inquiry about Mrs. Brothman and her baby, and the childish instructions about sliding into the front right seat? (Where else should he enter?) Why couldn't he simply ask, "Mr. Brothman?" and then introduce himself? But far and beyond all this nonsense, *why would a seasoned spy retain such an incriminating card so tenaciously for nine years?*

Because a pattern had to be tried out for Bentley's "greetings," so that in the Rosenberg trial Julius' "greetings" could be sent to Greenglass in a similar manner. Because Saypol did not dare to rely *solely* on these two trained seals, Gold and Bentley, since some intrepid juror might come to the conclusion that the one was swearing falsely and the other was merely confirming the falsehood. Because Saypol could not substantiate a rendezvous arranged by a simple telephone call from Gold to Brothman. Because Saypol needed that card in order to "nail" Brothman to the rendezvous. Because it was necessary to give to some harmless, sporadic talks between Brothman and Gold — during which the latter was obtaining some odd jobs — an aura of espionage which would make the jury say: "Oo-oo-oo-oo!" And because future testimony about more cloak-and-dagger meetings between Gold and Yakovlev, between Gold and Fuchs, between Gold and Greenglass, had to be unquestioningly accepted by press and public in the coming Rosenberg trial.

In other words, because Gold primarily, and Bentley incidentally, had to be set up and accepted as topflight Soviet spies in this, their

^{*}Later, in Gold's testimony at the Rosenberg trial, he tells that he even gave this telephone number to Yakovlev for the arrangement of *their* secret meetings.

*first court trial before a jury!** For, until the Brothman trial, Gold had been suspended in a state of legal limbo; he was without an officially accepted spy background. And worse — there had been not only the Grand Jury inquiry in 1947 which had *cleared* him, but the FBI investigation and search of his house which had proved nothing! And still worse — if anyone happened to touch the house of cards with which Dr. Fuchs' identification of Gold had been built the entire shaky structure might suddenly collapse.

But now the conviction of Brothman had insured against that danger. Now Harry Gold had an elaborate background as a veteran spy ever since 1935. Now the Brothman jury had decided that although he may have lied until "the steam came out of [his] ears," he was at last repentant and telling the truth. Now Gold's testimony had sent Brothman, a brother spy — who had refused to confess — to prison for a maximum term.

This was the acid test and Gold had met it before a Federal jury and had come through with flying colors. In effect, then, by reason of the Brothman trial, Gold had become as *officially* accepted as Dr. Fuchs' courier as he had been *publicly* accepted at the time of his arrest.

In addition, the try-out had gained for the Government the tremendous advantage of establishing motive for espionage by simply "connecting" it up with Communist Party membership or even Y.C.L. membership in one's youth, as was the case with Brothman. And in this respect the team of Saypol and Kaufman had smoothed out their routine, so that mere belief in, or former sympathy with, Communism could be introduced as motive. Now no holds were barred. Anything Saypol would introduce — even Ethel's signature on a nominating petition, or Julius' college membership in the Steinmetz Club — Kaufman would permit into evidence.

And finally, there was achieved for the Department of Justice the actual pinning down of Gold to his own testimony.† For there was a vast difference between a "voluntary" confession made to the FBI and sworn testimony before a jury at a public trial. And although Gold had pleaded guilty back on July 20, the Government could not be sure how he might react to the stiff sentence scheduled to be passed on him in December. It had requested Judge McGranery to postpone sentence again and again until *after* the Brothman trial

for this one vital reason: to get Gold to the features of his espionage tale. If they had a *before* the Brothman trial, there was the balk at a long prison term. But by holding his elaborately detailed spy career was soon realize himself that he was hoist by

Such, then, were the trump cards Saypol try-out, and such was the total significant case. Yet, with all due regard to all his doing, and others should receive w J. Edgar Hoover, Attorney General McGr Irving R. Kaufman. Separately or together that all of these officials conferred on eve of the two cases involving the FBI's two Bentley.*

It is noteworthy that in those two cases Vanzetti case and the Mooney case, both in such try-outs. In the Mooney case, there Billings just before that of Mooney. In the was the trial of Vanzetti on a charge of re trial, and presided over by the same judge prosecutor. Today, most legal scholars put these cases was to condition the public in guilt *in advance* of the main presentation sumption of innocence might benefit the

When the Brothman jury brought in charged," Judge Kaufman congratulated and thoroughness. Then he added by way

"... It gives me great mental security you ladies and gentlemen, that we have FBI in operation, guarding our interests. "Their work is truly amazing, particularly Gold. It is just amazing."

If comment be necessary, no truer words Kaufman, but he was unnecessarily mod

*"Yesterday was [Miss Bentley's] first appearance as a witness in a court proceeding." (New York Times, Nov. 15, 1950.)

†It could be for no other reason that Thomas J. Donegan, "Special Assistant to the Attorney General," was assigned to the Brothman case.

*In the Harry Dexter White bombshell tossed ungratefully, the extraordinary value of Bentley revealed. (See testimony of Hoover before the Times, Nov. 18, 1953.)

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did on the jury, for example, with the "little white card," was no less amazing than Mr. Hoover's "museum map."

On the week end before Kaufman imposed maximum sentences on Brothman and his secretary there was a sharp turn of world events and the blackest Sunday in American military history. Chinese troops had suddenly entered the war and MacArthur had been hurled back from the Yalu border:

"... with large losses, trapping units of the 1st Marine Division and the 7th Infantry Division at Changjin Reservoir."

It is hardly likely that anyone in such need of "mental security" as Mr. Kaufman thought to place the blame for the catastrophe where it truly belonged: on MacArthur's later revealed defiance of the Joint Chiefs of Staff, or on President Truman who had allowed MacArthur to make decisions for him. It was so much easier to blame a "traitor" like Owen Lattimore who had lost us China in the first place, or those two "traitors," the Rosenbergs, who were stubbornly refusing to confess their treason or, for that matter, this admitted former Y.C.L. member, Abraham Brothman, who could have exposed Gold's espionage to the Grand Jury back in 1947.*

On Nov. 29, 1950, when Judge Kaufman imposed maximum sentences on Brothman and Miss Moskowitz, we can already detect a mind as prejudiced as that of any unthinking victim of the daily scare-headlines. Although he himself had instructed the jury that there was not the slightest evidence of espionage, these were his words:

"... I have come to but one conclusion, and that is that I regret that the law under which these defendants are to be sentenced is so limited and so restricted that I can only pass the sentence which I am going to pass, for I consider their offenses in this case to be of such gross magnitude."

It was a portentous sign of what lay in store for the Rosenbergs and Sobell. But even more frightening was the headline they must have read in the *New York Times* on December 10, when Gold was sentenced in Philadelphia:

*Here, *reductio ad absurdum*, one might advance additional grounds to refute Kaufman's fantastic charge that the Rosenbergs had caused the Korean War. For if it is true that Brothman met Gold as a spy in 1941 — three years *before* the Rosenbergs' alleged crimes — and if it is true that Gold helped Dr. Fuchs transmit the most important atomic secrets to the Russians, then Brothman's failure to expose Gold in 1941 would seem to give him a three-year priority of blame. In other words, by exposing Gold, Brothman could have prevented not only the Korean War but the loss of our so-called atomic monopoly!

"GOLD, ATOM SPY, GETS 30 YEAR MAXIMUM FOR AIDING SPY RING"

Whatever were the reasons for Judge McGranery's boosting of Gold's sentence to the maximum, one thing is certainly clear: That it laid a "floor" for the unprecedented death sentences later imposed on the Rosenbergs.

And, curiously, there was no objection from Gold. According to the *New York Times* report, Gold "announced" through his attorney that he would not appeal, even though it was pointed out by court attachés that "the prisoner could have taken such action by claiming the sentence was 'excessive.'"

ix

And so ended the year 1950: For the bewildered chemical engineer, Brothman, who was tersely denied bail by Kaufman and hustled off in manacles to Atlanta penitentiary. For his shocked secretary who was destined to meet Ethel Rosenberg briefly in the Women's House of Detention while awaiting transfer to another prison.* For some ten thousand American youth, whose frozen corpses lay strewn over the wintry wastes of Northern Korea. And for the Rosenbergs and Sobell, who perceived in these mass sacrifices the magnification of their own possible fate, because they well understood the reason why all these Americans had died. It was for the essential reason that foreign soldiers had always died in Asia or in any other colonial land, no matter what other reasons might be advanced: to defend colonialism. This was the blood-soaked truth centuries old which no man could deny in the innermost chambers of his conscience.

It was a year that had marked a new era in American life. According to the *New York Times*, it had opened "one of the most extraordinary chapters in United States political history." It had begun with fantastic charges against the State Department by an unknown junior Republican senator, which, although exposed officially as a "fraud and a hoax," nevertheless intimidated the Democratic administration to such an extent that four years later it was forced to defend itself against charges of "Twenty Years of Treason."†

*During this meeting Ethel, in a feeling of sympathy toward the girl, gave her a locket she wore, a tiny gold replica of the Ten Commandments. Two years later it was returned to Ethel in the death house through Mr. Bloch, and subsequently became her only legacy to her children.

†See "McCarthy: A Chronology Since 1950," *New York Times*, Feb. 28, 1954, surveying the four-year regime of McCarthyism, starting with the Wheeling speech of Feb. 9, 1950, and culminating in the Army-McCarthy hearings in the spring of 1954.

It was a year that began a wave of conformity and orthodoxy. No one paused any longer to think or question. What we had once scorned in the German people under Hitler — their eagerness to say "Ja!" to officialdom, their readiness to "Heil" any ass or knave in jackboots — had become the new American way of life.

It was a year that marked a departure from everything we had ever cherished as a moral people believing in our democratic traditions — the dignity and ultimate worth of the individual. It began with an Oklahoma judge depriving an American mother of her two children because of her opinion that we had no business entering the Korean War,* and ended with Americans condemning a presumably innocent man and wife *before* trial with epithets reminiscent of the Middle Ages: "They don't deserve a trial! Fry 'em! Sizzle 'em!"

It was a year that began with a wave of corroding suspicion, meanness and violence, and it was a year that ended with the triumph of the informer — with each man coming to eye "his neighbor as a possible enemy," and where, as Judge Learned Hand pointed out:

"... Non-conformity [became] a mark of disaffection; where denunciation takes the place of evidence; where orthodoxy chokes freedom of dissent. . . ."†

To tell why, how and wherefore all this extraordinary change came about is not the purpose of this book. But it is our purpose to tell the why, how and wherefore of the Rosenberg case, "the most important political case of this generation," and one that took place in an "atmosphere of clashing ideologies and fearful expectations."‡ To do this we have felt it essential to present the case within its proper frame of reference, namely, the political atmosphere that so effectively masks the frame-up and discourages its exposure.

That part of an iceberg seen floating above the surface is but one-ninth of its mass. The remaining eight-ninths lie hidden beneath. We have tried to show some of this hidden mass, and now, as we approach the trial itself, we will see some more of it — some more of the "psychology of prosecution," some more of Kaufman's prejudicial conduct and his "empty ritual" of justice, and a good deal more about the haunting question: Did the Rosenbergs and Sobell really have their "day in court"?

*The Jean Field case in Oklahoma.

†From a speech by Judge Learned Hand, *New York Times*, Oct. 25, 1952.

‡*Columbia Law Review*, *op. cit.*, p. 219.

PART TWO

January-April, 1951

10 | "How the Pattern Keeps Unfolding"

i

*"How the pattern keeps unfolding. More political arrests, disregard for the rights of people and for the Constitution, and a greater hysteria through the country . . ."**

IN THE two months preceding trial the progression of world events moved swiftly. On January 11, President Truman obtained approval from Congress for the first shipment of four fighting divisions to Europe. Since this commenced our open liaison with members of the former Nazi General Staff, no one was surprised at the news on January 15 that the life of the notorious Ilse Koch had been spared. Despite the macabre evidence of her gruesome crimes (lampshades of human skin) she was soon given her full freedom.

In Korea the continuing retreat of our troops further intensified the need for scapegoats at home. Perhaps at no time since the news of the Soviet Union's first atomic explosion was the fear as great as it was in these early months of 1951. The nightmare of what we had done to Hiroshima and Nagasaki returned to us in the form of daily "fright" stories disguised as news. For example, these were the New York *Journal-American* reports of January 8 and 9:

**"IF SOVIETS START WAR, ATOMIC BOMB ATTACK
EXPECTED ON NEW YORK FIRST"**

"Nobody will have to run if H-bombs start detonating. A big black cloud full of radio-active particles will get you even if . . . you happen to be browsing around the bottom of an abandoned lead mine."

Day after day such accounts continued to whip up tension. Metropolitan centers were pictured as utterly defenseless. With one blast 160,000 city dwellers would be annihilated. Atom bombs would be smuggled into our ports by Russian or Polish steamships. With such

*From a letter by Julius Rosenberg to Mr. E. H. Bloch.

alarums following hard upon the succession of arrests of "Communist spies" it was a serious question whether any prospective juror could remain immune to the horror of gruesome death interwoven with the other three main lines of propaganda: Communism as an international conspiracy, Communist spies high in government circles, like Alger Hiss and Harry Dexter White, and A-bomb spies like the Rosenbergs and Sobell. And as the trial drew nearer, all four lines inevitably converged into the one refrain: Only thing to do with them rats—hunt 'em all down and shoot 'em!*

ii

"The law's delay, the insolence of office . . ."
— Hamlet

In the office of United States Attorney Saypol there were also various lines to be properly coordinated before trial. One may better describe them as reins held in the hands of Saypol's various drivers. Most important of these was the team of Myles Lane and Roy Cohn which controlled the stable of Gold and Greenglass up on the eleventh floor. Then there was the team of James Kilsheimer III and O. John Rogge grooming Ruth Greenglass. As for the task of harnessing up Sobell, Perl and Elitcher, these three sets of reins Saypol delegated to himself. Right at this moment, however, Sobell was proving unruly. Not only had Indictment No. 2 failed to bring anticipated results but Sobell's attorneys had moved to dismiss it "on the ground that the contents thereof [were] vague and indefinite." In his affidavit Mr. Kuntz had written:

"I do hope that this case will not take the course of many others throughout history in which the authorities that placed human beings in jeopardy of their lives and liberty and did so in consequence of a blunder refused to acknowledge that blunder and instead endeavored to bolster up their accusations by every

*In Vice President Nixon's televised apology for McCarthyism this refrain was somewhat modified. Speaking officially for the Republican administration, Nixon cautioned:

"Some Red-hunters feel that Communists deserve to be shot like rats. Well, I'll agree; they're a bunch of rats, but just remember this. When you go out to shoot rats, you have to shoot straight, because when you shoot wildly, it not only means that the rats may get away more easily, you make it easier on the rat, but you might hit someone else who's trying to shoot rats, too." (*Time*, March 22, 1954.)

The Empty Ritual

*"It is error only and not truth
that shrinks from inquiry."*
— Benjamin Franklin

means in their power, and at times they even succeeded in their efforts."*

When almost a full month had passed without "relief" another motion was filed demanding a Bill of Particulars, since the indictment against Sobell did not even include the five conversations charged in the arrest warrant:

"... We are in the position of being obliged to wait until the U.S. Attorney, during the trial . . . brings forth such evidence as may be available to him, but entirely unknown to us, and then for the first time, we would be obliged to scurry around in the hope of meeting such evidence.

"Clearly, no attorneys for the defendant in a criminal charge, especially one of such magnitude as this one, should be placed in such a position and, therefore, I respectfully ask this Court, for what we consider a minimum of information to enable us to know what we may be required to meet in all fairness and justice."

In the reply by Myles Lane, although it was conceded that "the primary purpose of an indictment is to apprise a defendant . . . of the charge in detail sufficient to enable him to prepare his defense," it was argued that the espionage statute itself was sufficient and that the Bill of Particulars be denied. It was further argued that such a bill had been denied the Rosenbergs back in October, hence there was no reason why Sobell should be granted one.

Apparently, however, Judge Sylvester Ryan could not overlook a glaring discrepancy: In their indictments (both No. 1 and No. 2) the Rosenbergs had been informed of eleven overt acts. But *none* of these involved Sobell whatsoever, not even by indirect mention. Therefore, "after due deliberation," Judge Ryan ordered that the Government furnish within ten days:

- "1. The approximate date it is claimed defendant Sobell joined the alleged conspiracy, and
- "2. The approximate dates it is claimed defendant Sobell participated in overt acts committed in pursuance of the alleged conspiracy."

Surely this was little enough detail for Sobell to have in preparing his defense but Saypol was determined to yield nothing. One can conclude only that he still believed Sobell would crack under an overpowering display of strength. And, indeed, Saypol amply demon-

strated such strength by obtaining from Judge Ryan an order for a reconsideration of Ryan's refusal of Myles Lane on Jan. 11, 1951, requesting:

"The particulars which Judge Ryan ordered the defendant Sobell to furnish to the defendant Sobell a complete blueprint of the Government's blueprint of the Government."

Here is an excellent example of the ploy of giving Sobell merely the approximate dates, instead of disclosing the complete blueprint. But only two paragraphs later what the Government's blueprint is not complete! He continues:

"It is safe to assume that during the trial additional evidence of further importance will be brought to the attention of the Government.

"In the light of this fact the net result will be to . . . seriously hamper the prosecution."

And so we see in January, 1951, that Sobell is expected in future weeks — which weeks before trial! But then what about 1950? He had to have given his complete story in July, 1950.

Nowhere perhaps is there a more flagrant delay and insolence of office than in this record. Here on the 15th of January, 1951, after the kidnapping of Morton Sobell, we find him under \$100,000 bail for "a scintilla of legal ground for an indictment." Here is the affidavit of the attorney for Sobell:

"The motion [Lane's] was made eight days after the date when the bill of particulars was served.

[Note: Judge Ryan's ten-day order denying Lane's motion was made Jan. 11, 1951, and had been made on or before January 8.]

"... Naturally, we must assume that the Government realizes that the delay is injurious to Sobell and it is, therefore, hoped that it will be avoided."

*See Record, pp. 8-26 regarding Bill of Particulars.

*Judge Goddard, the seventy-five-year-old senior judge of the Eastern District, was the presiding judge over the trial.

Judge Henry W. Goddard*
ing. Here is the argument
Goddard's stay:

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Particulars should have been

was dated Dec. 29, 1950.
, whereas it should have

the United States Attorney
the rights of the defendant
any further delay will be

senior judge of the South-
convicting trial of Alger Hiss.

And not until nine days later, on January 24, do we find Judge Ryan arriving at a decision regarding the long-requested bill. But now we see Judge Ryan surrendering to pressure which could have come only from Attorney General McGrath:

"Ordered and Adjudged that the order for the bill of particulars . . . be modified to the extent of limiting item 2 of the bill of particulars to requiring the Government to state whether they still charge the defendant Sobell with the commission of the overt acts set forth in the complaint before the United States Commissioner [the five conversations] . . ."

So here we are again where we started in Laredo with the five conversations. And here is the bill finally submitted five weeks before trial:

"Bill of Particulars Re Morton Sobell

"1. The approximate date when the defendant Sobell joined the alleged conspiracy is on or about June 15, 1944.

"2. The Government still charges the defendant Sobell with the commission of the overt acts [the five conversations] set forth in the complaint before the United States Commissioner, sworn to on August 3, 1950."

In short, the only item of information given the defense was the altered approximate date Sobell was supposed to have joined the conspiracy, which in Shroder's complaint had been designated as "July of 1944." As for the dates of the alleged conversations, it is significant to point out that they began in January of 1946, or *after* the war! Thus it is seen that the Government could furnish not one overt act taking place in wartime. Nevertheless, this wartime 1944 date was retained in the Bill of Particulars. Why? Because for a violation of the Espionage Act in peacetime the maximum sentence could be only twenty years.

In time of war, however, the Act provides for a sentence up to thirty years or punishment by death. And thus, by the arbitrary insertion of an unsubstantiated wartime date, Saypol was enabled to threaten Sobell with the death penalty itself!

iii

As we enter the month of January, 1951, we notice additional fragments of the jigsaw puzzle falling into place. To give a better view of the over-all picture, here is a chronology of Elitcher's statements and Grand Jury appearances:

Statement No. 1: Allegedly signed July 20, 1950, and including "the whole complete story" about Rosenberg.

Statement No. 2: Allegedly signed on July 21, containing a "full discussion about Sobell."

1st Grand Jury appearance: August 14. (However, when the Grand Jury returned Indictment No. 1 on August 17, there was no mention of Sobell and, as will be seen, there was no overt act involving Rosenberg and Elitcher. On October 10 when Indictment No. 2 finally included Sobell, there was still no overt act concerning him, Rosenberg or Elitcher.)

Statement No. 3: Allegedly signed at the end of 1950, containing Elitcher's "belated recollection" of the alleged 1948 auto ride with Sobell to meet Rosenberg — the night that Bentley's name was discussed.

2nd Grand Jury appearance: January, 1951, at which Elitcher presumably recounted the incident of the auto ride and the details of Rosenberg's initial spy proposal to him on June 6, 1944. (Indictment No. 3, returned on Jan. 31, 1951, includes for the *first time* the overt act of Rosenberg's alleged spy proposal to Elitcher but still fails to include any overt act on the part of Sobell.)

To clarify this somewhat further it should be stated that whereas in Indictments No. 1 and 2 there are contained eleven overt acts, all dealing with the Greenglasses, with the first one dated Nov. 15, 1944, in Indictment No. 3 the first overt act, now involving Elitcher, pushes back the start of the conspiracy to June 6, 1944. Thus instead of the original eleven, there were now an even dozen. Perhaps this is an opportune place to set them forth in full:

"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.

[Note: This was Elitcher's address and this visit included the alleged initial spy proposal.]

"2. And further in pursuance of said conspiracy . . . on or about November 15, 1944, the defendants Julius Rosenberg and Ethel Rosenberg conferred with Ruth Greenglass.

"3. And further . . . on or about November 20, 1944, the defendant Julius Rosenberg gave Ruth Greenglass a sum of money.

"4. And further . . . on or about November 20, 1944, Ruth Greenglass boarded a train for New Mexico.

"5. And further . . . on or about December 10, 1944, the defendant Julius Rosenberg went to 266 Stanton Street, New York City. [Address of the Greenglasses.]

"6. And further . . . on or about December 10, 1944, the defendant Julius Rosenberg received from Ruth Greenglass a paper containing written information.

"7. And further . . . 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 . . . 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 . . . 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 . . . on or about January 12, 1945, the defendant Julius Rosenberg conferred with the defendant David Greenglass.

"11. And further . . . 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 . . . on or about January 14, 1945, the defendant David Greenglass boarded a train for New Mexico."*

Now the big question arising must be quite obvious: If Elitcher truly gave the FBI his "whole complete story" about Rosenberg on July 20, and repeated it before the Grand Jury on August 14, why wasn't his *very first and most important spy meeting* with Julius included in the list of overt acts of August 17 (Indictment No. 1)? That it was most important is demonstrated by the fact that it is the *only* overt act concerning Elitcher and Rosenberg found in the final indictment.

Furthermore we have just seen in the Bill of Particulars that Sobell was supposed to have joined the conspiracy on June 15, 1944, which, if true, presents this curious conflict: On the one hand Julius is accused of recruiting Elitcher into the conspiracy on June 6, but on the other hand it is the latter's testimony that he accepted the spy proposal only because of Sobell's *prior presence* in the conspiracy.

*Record, pp. 2-4.

In other words, the logic of Elitcher's ent completely destroyed by the date attributed

The meaning of all this is quite clear. the conspiracy was built up from month needs of the prosecution. As Saypol beca of 1950 that Rosenberg would not break, weaving more and more of the "conspirac Overt Act No. 1 in the final indictment indictment. And when Saypol failed in a Government witness Elitcher was furtl him into the "conspiracy." And this is why before the Grand Jury comes as late after his so-called telling of "the whole t

Returning briefly to Saypol's third set Perl, strong measures were taken to tear February, just a few weeks before trial. C tience up to this time may have been his one Raymond L. Wise, a former Assistan Evidently confident that Mr. Wise would as Mr. Rogge had been with Elitcher, increase the pressure at a special meeting

"In the winter of 1951, he [Perl] was of FBI agents and government prosec

"Roy Cohn, then an assistant Unit Senator McCarthy's assistant, said to be indicted."

"Perl replied: 'I have nothing to c any charges against me in open court

Apprised of Perl's defiance Sayp him on perjury charges, counting on the berg trial to effect a change. So confide evitable submission that he announced hi notwithstanding his six months of consi edge of espionage!

*At Perl's trial this Mr. Wise virtually prome him. Here is an example of his allegiance to viction:

"I hope that Mr. Perl will be moved to o from now on." (New York Times, May 23.

†Article previously cited in *The Nation*, June

ry into the spy ring is com-
to Sobell's entry!

It is that Elitcher's part in
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January, 1951 — six months
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One reason for Saypol's pa-
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nfess. I would like to hear
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nt was Saypol of Perl's in-
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his client following the con-

operate with the Government
1953.)
20, 1953.

iv

There remained but one more chore for Saypol — that of convicting William W. Remington, a Commerce Department employee. His conviction prior to the Rosenberg trial had become obligatory for a number of reasons, all of which involved the ubiquitous Miss Bentley.

Among the thirty Washington government workers she had named as members of a Communist spy ring was Remington. Denying the charges, Remington appealed to the Loyalty Review Board. Soon after, he filed a libel suit against Bentley when she repeated her charges on an unprivileged radio program.

Not only was he cleared in the course of the Loyalty Review Board's inquiry, but Bentley's reputation suffered serious injury. Although, as the only witness, she had promised to appear against Remington she consistently evaded all requests to do so. In addition, it was reported that she "had been eluding process servers in Remington's libel suit," having suddenly "embraced Catholicism."*

And so Saypol found himself with a highly important witness whose reputation had been seriously tarnished by Remington's victories. It was essential to restore her prestige as a legitimate "Red Spy Queen" in the most forceful way: by having Remington sent to prison on her testimony. Obtaining an indictment against him on charges of perjury presented no difficulty, since the foreman of the Grand Jury, one John Brunini, happened to be the "financial and literary collaborator of the chief prosecution witness, Elizabeth Bentley"†

Even less difficulty was encountered at Remington's trial, which was presided over by Judge Gregory F. Noonan, a former law partner of Irving Kaufman and appointed with him on the same day to the Federal bench.

Needless to say, Remington was swiftly convicted. And although the verdict was subsequently upset by the Appellate Court, which held "that the jury was not charged properly on what constitutes Communist Party membership," Saypol had vindicated his leading lady

*Located by a reporter of the New York Daily News, Bentley was found hiding "in a Catholic retreat . . . the newest of the ex-Communist recruits converted by Monsignor Fulton Sheen." (See article, "The Remington Loyalty Case," New Republic, Feb. 28, 1949.)

The libel suit was subsequently won by Remington, who settled for a "payment of \$9,000" from Bentley. (See I. F. Stone's Weekly, Nov. 30, 1953.)

†This remarkable coincidence was brought to light in Remington's appeal to the Supreme Court. (New York Post, Aug. 2, 1953; New York Times, Dec. 25, 1953.)

and restored her prestige in time for the Rosenberg trial.* Thus Bentley, like Gold, also met the acid test of convicting a former "spy contact."

Before we leave the Remington trial it is well to take note of Mr. Saypol's tactics during cross-examination of a defense witness named Redmont, which concluded in actual Jew-baiting! If this is incredible to those who have accepted the argument that no possible anti-Semitism was present in the Rosenberg trial on the specious grounds that Saypol, Cohn and Kaufman are Jewish, here is the opinion of the United States Circuit Court of Appeals reversing the Remington verdict:

"We wish . . . to admonish counsel for the prosecution that in case of a retrial there should be no repetition of the cross-examination attack upon defense witness Redmont's change of name.

"... On cross-examination the prosecutor continued his inquiry of this matter long after it became clear that the change of name had no relevancy to any issue at the trial, and could only serve to arouse possible racial prejudice on the part of the jury." (Emphasis added.)

v

"... Every inmate, almost to a man, waves, shouts a greeting and smiles warmly as he passes [my cell]. . . ."

It was the morning of March 5, 1951, the day before trial, and Julius Rosenberg was awaiting the arrival of Emanuel Bloch for a final conference. He had had a sleepless night — the 231st night since his arrest. He had tried to continue his reading of one of the books lent him by his attorney, *The Rise of American Civilization*, by Charles and Mary Beard — but could not concentrate. He would look up as he flipped his cigarette butt into the toilet bowl at the far end of his cell and see the cockroaches which infested the prison. Going after them (he referred to it as "game hunting") had become a "nightly diversion."

*This Court of Appeals reversal was on Aug. 22, 1951, some five months after the Rosenberg conviction. However, on Jan. 27, 1953, Remington was retried and convicted. He was sentenced to a three-year term in Federal prison. Late in 1954 he was murdered in prison.

†Letter of Julius to Ethel, dated April 19, 1951.

In the conference with Mr. Bloch (as subsequently related to this writer), the most important question was whether or not Julius and Ethel were to use the privilege of the Fifth Amendment. The question had come up in previous talks and both Julius and Ethel had remained firmly convinced that standing on their constitutional rights was not only a principled position but the only practical one. While Emanuel Bloch agreed completely, nevertheless he felt Julius ought to know the viewpoint which Alexander Bloch had expressed to him recently.

"My father takes this position, Julie," the attorney stated simply. "Let's assume you were Communists. It would sound better to a jury if you said so in that case."

To this Julius replied that he had given the jury's possible reaction considerable thought. First, they were not Communists; but what good would it do even if they repeated this a hundred times? Would the jury believe them? Saypol would need only to bring up the fact of Julius' FBI-inspired dismissal from the Signal Corps, and, notwithstanding his written denials, whom would the jury be inclined to believe? It would be his word against that of the FBI. In addition Saypol was sure to counter with the widely accepted theory that all Reds were trained to lie.*

... Look at Remington who had not taken the privilege in his trial back in January, and had even tried to prove his "anti-Communist views." Had the jury believed him? Look at Alger Hiss, who had been vouched for by Dulles, Acheson, Justice Frankfurter and Governor Adlai Stevenson. Here was the former president of the Carnegie Foundation for International Peace also denying Communist Party membership. What had happened to him...?

And there was another reason why their position, being a principled one, was proper. Once they abandoned their privilege, Julius pointed out, and opened the area of questioning, would not Saypol seek to drag in every one of his classmates who had happened to

work at Fort Monmouth? Why should these friends to the insatiable McCarr be hounded and ruined?

And here another important question asking friends and neighbors to testify on this, too, Julius and Ethel were in a little purpose. For one thing, such charity only that they had known the Rosenbergs and hard-working couple. But Saypol would test this. In fact with the grotesque logic stood on its head these days their very as a "front" behind which the "spy ring"

For another thing, suppose Saypol in "Do you know for a fact that your friend is not a spy?" What could the friend reply: know — but I am sure they couldn't have could retort, "If Alger Hiss was able to fool Foster Dulles, certainly the Rosenbergs could."

Finally, there was the danger that such about their own political beliefs and associations afford to risk perjury prosecution by their citations by refusal to name other friends privilege, would not their character be worthless as coming from "Fifth Amendmenters?"

Above all, as Julius summed it up, the jury hearing the truth of their innocence the prosecution to turn the trial into a pot taking the Fifth Amendment it could be defence.

*Headline of Oct. 7, 1953, in Los Angeles Times: "FIRING OF FIVE MAY EN RIVALING ROSENBERG"

This was the opening salvo of McCarthy's invasion since recognized as a "phony crusade." See Times, Jan. 11-13, 1954, and its editorial conclusion impartial reader with a sense of uneasiness, it †In Judge Picard's sentencing speech previously

"... There hasn't been a divorce among them you make any money on this. You're not nervous... have been able to learn and tell me. Yet who are devoted, but you have that quirk in you. You, Mr. Allan, are a rather likable person and would make a good newspaperman, but and because you are such a likable person (Emphasis added.)"

*In sentencing six Michigan Communists after a Smith Act trial, United States District Judge Frank A. Picard stated to the defendants:

"... There isn't any doubt in my mind, and there wasn't any doubt in the jury's mind, that there is nothing you wouldn't do — lie, cheat, or even worse — in order to obtain your objectives." (U. S. News & World Report, March 19, 1954.)

Note: It stands to reason that with such a predetermined point of view as Judge Picard's, a sham was made of the very trial he presided over, since it automatically ruled out all defense testimony as perjurious and also denied the presumption of innocence.

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riders and McCarthys

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PROBE
CASE"

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that it "must leave any
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said, he adds:

le six of you. None of
sary so far as the FBI
are wives and children
thinking....
in looks and manners
have those ideas too,
... dangerous...."

(Note: The opinion of many lawyers with whom this writer has discussed this principled stand of the Rosenbergs was that while it was unrealistic and even naïve it should have tended to convince the jury of their innocence. Because if one believes the prosecution's theory that Julius was truly the veteran spy, then one must assume that he knew that the "jig was up" as he faced exposure by his own relatives. If this was the case, it is inconceivable in the climate of 1951 that he would brand himself as a "Communist hiding behind the Fifth Amendment.")

Since there was no proof offered by the Government that he was a member of the Communist Party, he could have forsaken his constitutional privilege and risked a perjury charge in another prosecution and a maximum sentence of five years. And if he refused to inflict similar risks upon friends whom he might be called upon to name as the result of opening the area of questioning, then all he would have risked in this regard would have been a series of contempt penalties.

It would seem conclusive, therefore, that if he were a spy realizing he was on trial for his life he would gladly have accepted these comparatively minor risks. Instead, his attitude on this issue appears to have been the very opposite of a man with any consciousness of guilt.)

When he visited Ethel later that day Mr. Bloch received much the same reaction. Regarding those few friends who had offered to appear as character witnesses, Ethel asked him to extend her heartfelt thanks. She knew only too well what courage such offers entailed. During recent visits from members of Julius' family she had heard about the panic that had overtaken almost everyone who had ever known them. One friend, who had first heard of their arrests on the radio, had confided to one of Julius' sisters:

"I was shocked. I was sick for a week. I had to go to bed, and for a week I couldn't sleep. I simply couldn't figure it out. . . . I thought something's wrong."

An engineer himself, this friend had seen and talked with David Greenglass frequently in Julius' machine shop. When he had read that David confessed stealing atomic secrets, his immediate response had been that the whole thing was preposterous:

"He was no more capable of it than a salesman without any technical education would be, I know of my own knowledge that

David couldn't have taken an idea out of that machine shop, let alone a scientific idea out of Los Alamos."

But what had frightened him most was the unpredictable lengths to which David might go in the fix he was in. Anyone who would consent to involve not only his brother-in-law but his own sister was capable of anything, and a character witness might suddenly find himself an accused defendant!

"He might not stop there, but even involve a whole slew of Julie's friends, including myself. After all, I knew David, and I knew he was irresponsible, and I knew there was something fishy about the whole thing."

When Mr. Bloch took leave of Ethel that afternoon before the trial, although she was as realistic as Julius about the seriousness of their predicament she voiced hopes for acquittal. She even added cheerfully, "You know, it's the first time I've ever lived on the West Side of town, but I think getting back home to the East Side will be a lot nicer."

In the course of their conferences Mr. Bloch had always found her "a touching figure." In the brief period before her arrest he had watched her lonely struggle to keep things going at home and at the shop, as well as her efforts to keep up her husband's morale with frequent letters and visits. In prison he had come to know her as a sensitive, tender mother and a cultured woman, "a figure in her own right."

vi

Early on the morning of March 6 there was an unusual bustle of activity on the fifth floor of the Women's House of Detention. The matrons, though they knew what it was all about, pretended ignorance. As soon as the cell block was opened Ethel's fellow-prisoners scampered from cell to cell collecting various bits of clothing they had secretly prepared for her appearance in court that morning.

There had been much discussion about this. The light print dress she had worn at the time of her arrest back in August was unsuitable for early March and while the FBI had sent over some of her old blouses and skirts, they were considered unpresentable.

Yet Ethel seemed unconcerned. Julius had said she looked pretty when they had met in the Federal Building at the last indictment proceedings, and that was enough for her. But Anna, her cellmate,

and the other women had their own opinion of how one should appear at a trial:

"You can have right on your side, but the members of the jury usually aren't poor people, and are going to be more impressed if you're wearing a smart suit."*

There was no smart suit to be found but each woman tried to muster what she could — here a bag, here a pair of stockings, here a handkerchief, here a veil and even a pair of shoes. From up on the ninth floor, where Ethel had previously been quartered, two women sent down a couple of hats they had crocheted for her.

"They looked horrible on her," Anna recalled. "But Ethel thought one of them was lovely and said later that Julie thought it looked lovely too."

When Ethel stepped out into the corridor dressed in the make-shift outfit there were stifled groans. Touched by their concern, Ethel told them that it didn't matter too much to her; she had never given much thought to clothes. With Julius' income they had found it just about possible to make ends meet so they never even thought about luxuries.† This didn't mean, however, she reminded them, that she had ever "lacked for anything in her marriage."

When the prison van stopped in the yard of the West Street jail to pick up the prisoners to be taken to the Foley Square Courthouse that morning, the same thing happened as on previous occasions when Julius had to go along to appear on his various indictments. Now as before, the prisoners stayed back to allow Julius to enter the "pie-wagon" first. It was so that he might sit close to the steel mesh screen which separated the men from the women who would be picked up on the way to the courthouse.

Ethel's friend, Anna, had to appear that morning on a legal development in her own case and therefore could report firsthand what she witnessed in the prison van. She had always taken Ethel's story of her happy married life with Julius with a large grain of salt:

"... I just couldn't believe that any marriage was all she said hers was, but after what I saw in that pie-wagon, jolting along to Foley Square, why, I know Romeo and Juliet weren't even in it.

*This and other excerpts regarding Ethel's cellmates are from the personal interviews made by Virginia Gardner, *op. cit.*

†The uncontested record discloses that Ethel Rosenberg's wardrobe expense in all the ten years of her marriage totaled \$300. This included the purchase of an \$80 fur coat. (Record, pp. 1083-1084.)

"... The women who were going Ethel take her seat. I sat down opposite van. . . . Then I happened to strike a match. "I didn't even wait to get a light. I lit and Ethel, kissing through that damned that cigarette that bad."

The two touched fingers through the mesh but remained silent, for they knew each other they got a fair trial? Would it be a jury law, peers meant equals "in natural gifts there be people among the jurors who would be someone who had to raise income, someone who lived in a housing \$50 per month? Would there be just one not look at them scornfully as Jews and he

There was no way of foretelling. But judge was to be and they wondered about and impartial? Would he ignore the stigma upon them and judge them solely on the merits?

They had heard that he was young and Would this tend to open his heart to the to the plight of their children? And would Jewish himself make him more understanding? But here too there was no way of foretelling than his name — Irving R. Kaufman. The did not even know that the name "Rosen father-in-law, Louis Rosenberg. And though as a Jew like themselves, they did not know oughly indoctrinated since the age of fifteen Church. In truth, they knew as little about conduct their trial and decide their fate which is to say, almost nothing.

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11

Young Man in a Hurry

*"A judge, like other human instruments of government or justice, is or comes to be the product of his environment, his education, his experience, and yes, his prejudices."**

IN 1951, the year of the Rosenberg trial, Irving Kaufman was still known as "the boy judge," for he was only forty years old. He lived a sedate family life in his Park Avenue apartment with his wife and three sons—the oldest, Robert, twelve; the twins, James and Richard, aged nine. A devoted father, he would take his three boys each Saturday to the Yankee Stadium for the best in baseball and on Sunday mornings the family attended the reformed Park Avenue Synagogue. His personal habits, we are told by Oliver Pilat in the *New York Post* of January 11, 1953, were ruled by an "iron discipline." He would smoke no more than "two cigars a day, one after lunch and one after dinner. Never more, never fewer."

It must be mentioned that his name has often been confused with the Honorable Samuel H. Kaufman, a Federal judge in the same Southern District, who came under severe criticism including threat of disbarment because of his impartial conduct of the first Hiss trial which ended in a hung jury. Many people believe it was Samuel Kaufman who was the presiding judge at the Rosenberg trial. Unfortunately, he was not.

The foundations for what has been called Judge Kaufman's "whirlwind career" were laid in his undergraduate years at Fordham University. From the day he enrolled to the day he was graduated with highest honors he had always "impressed the Catholic fathers who taught him."† They stared with amazement not only at this small

*From an article, "No Longer a Judge," by U. S. Federal Judge Delbert Metzger, United States District Court of Hawaii from 1939 to 1952. (*The Nation*, July 18, 1953.)

†This excerpt and others to follow concerning Kaufman at Fordham are from an article, "Rosenberg Case: Judge Kaufman's Two Terrible Years," *Saturday Evening Post*, Aug. 8, 1953.

boy of fifteen, an age when most lads were just entering second year high school, but also at his record card which indicated that he was Jewish. (He had been born in New York City on June 24, 1910, the son of Herman Kaufman, a manufacturer of tobacco humidifiers.) Occasionally there could be found a Jewish student or two among the thousands of Catholics at Fordham but they were usually enrolled in its excellent law school. It was most unusual to find this adolescent Jewish boy choosing a Catholic college for his general education.

Yet, even at this early age, Kaufman seemed to know what he wanted, because for a politically ambitious young man there was a considerable advantage in attending a college like Fordham in a city dominated by the Tammany machine. And for someone like Kaufman there was a double advantage, because, with the vast population of Jewish and Catholic voters in New York, choice political posts were parceled out more or less in proportion — so many to Jews, so many to Catholics and, of course, a reasonable few to Protestants. It is possible that some politically astute friends of the family had pointed out that the brilliant boy would double his chances for advancement by going to Fordham. (Note: In Tammany circles the usual designation for such persons is a "Catholic Jew.")

Of young Kaufman's abilities as a student, including his ability to conform, there can be little dispute. According to his biographical article in the *Saturday Evening Post*, even in his "difficult course in Christian Doctrine" he appeared to outdo his classmates:

"When the final grades . . . were announced, the Murphys and O'Briens drew down 75's and 80's but Irving Kaufman rated 99, the highest in the class. Thereafter, his classmates took to calling him 'Pope Kaufman.'"

It is worth contemplating this curious phenomenon. As the solitary Jew in his class, there were basically two courses of conduct open to the young student. The natural one would have been to protect oneself with an armor, if not in a religious sense, certainly in a cultural, traditional sense. With this course, there would have been an increase of his feeling of oneness with the Jewish people and its history which was predominantly a struggle against oppression and bigotry. However, we see that he chose rather the more practical course — to ingratiate himself as one who was "different" from the rest.

Another aspect of this phenomenon was young Kaufman's isolation from liberal student groups which existed in most American uni-

versities in the late 20's. Certainly no one can ever accuse him of having been thus contaminated while at Fordham. And it is certain, too, that he could not have remained entirely immune to the implacable opposition of the Church to any and all shades of American radicalism. Finally, unlike undergraduates in other colleges, he was deprived, perforce, of all those literary classics and current books so strictly forbidden by the Papal Index.* To be sure, he was free to read them at home, but, when one considers that he had set himself the prodigious task of completing his four-year course in only three, it is highly doubtful that he had much leisure for extracurricular reading. When he had accomplished this feat he was just eighteen years old, an age when most college boys are just beginning their freshman year.

Two years later, at the age of twenty, we see him graduated from Fordham Law School, not only as the top man in his class, but also as "the youngest graduate in the law school's history." During these two years, we are told, young Kaufman spent much of his free time attending trials at the Federal Courthouse just across the way from the downtown law school. And in his interview with his *Saturday Evening Post* biographer he proudly recalls that:

"The first sight of black-robed judges stirred him and he resolved to become one."

However, Kaufman was somewhat delayed by his tender age in his inordinate ambition to become a judge, for at twenty he found himself too young to take his bar examination:

"Much distressed, he urged an attorney friend to petition the New York State Court of Appeals to waive the age requirement in his case."

Whereupon we read that the late Chief Justice Cuthbert Pound told the attorney informally, "Tell the young man to slow down a bit. A few months' wait will do him good."

Following his admission to the bar in 1932 we find Kaufman's legal career and marital prospects beginning simultaneously in the office of the prominent New York attorney, Louis Rosenberg.† Here

*"Index Librorum Prohibitorum: . . . The Modern Index forbids in general the reading of books that are prejudicial to the faith and to morals, and it lists the titles of those specifically condemned since [the year] 1600." *Columbia Encyclopedia*, p. 878. Columbia University Press, 1940. This prohibitive list includes the works of Rousseau, Voltaire, Anatole France, George Bernard Shaw, Henrik Ibsen, H. G. Wells, Thomas Paine, etc.

†Not related to Julius Rosenberg.

he was promptly captivated by his boy to a New York *Post* article, would often see her father." We are assured, however, "knew immediately this was the girl he wanted" and made no overt move [toward her] lest someone get in with the boss."

Early in 1935, when Kaufman was only twenty, he managed to obtain an appointment as Special Assistant United States Attorney in the Southern District of New York. It was now proper to court his former employer, as the fledgling prosecutor did so, and not only so, but Helen Rosenberg were engaged. In 1936, when Kaufman was twenty-one, a few years Kaufman gained considerable reputation as "the boy prosecutor."

In 1940, at the age of thirty, Kaufman began his law practice with Gregory F. Noonan and Charles E. Simpson, chairman of the State Athletic Commission. Simpson, Brady, Noonan & Kaufman, a nation-wide chain of grocery stores and hotels. Only five years later, before Pearl Harbor, he was netting more than \$100,000 a year.

Oddly enough, although Kaufman was at the time of Pearl Harbor, we find no military service notes in *Who's Who* of any military service. In the same *Who's Who* he is listed as an Athletic Club. There is no mention in any of his civilian contribution to the war years. The young attorney who prospered so greatly during the war years.*

In 1947, some two years after his appointment as Special Assistant to the Attorney General, who was later to be appointed to the United States Supreme Court. After some nine months in Washington practice in 1948. By this time he had reached considerable power in the political machine. His particular role was that of confidential counsel. Prospective appointees for positions of Special Assistant United States Attorney and for the Federal Bureau of Investigation of New York were channeled through Kaufman, and later to Attorney General McCarver.

*In view of Kaufman's attitude of super-patriotism of the Rosenbergs, one cannot help suspecting that he was not only a close friend but also a close associate.

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By 1949, however, having amassed a personal fortune, he decided to recommend himself and his partner, Gregory F. Noonan, for the Federal judiciary, which he had always held was "the capstone of the legal profession" together with "the black robes [and] the high bench." And, as indicated earlier, both partners were appointed Federal judges of the Southern District of New York simultaneously on November 1, 1949. Kaufman was then only thirty-nine.

ii

"Federal judges . . . seem to be swayed by fear and hysteria."

— Judge Delbert Metzger

*"... He [the judge] must not take on the role of a partisan; he must not enter the lists; he must not by his ardor induce the jury to join in a hue and cry against the accused. Prosecution and judgment are two quite separate functions in the administration of justice; they must not merge."**

Was Judge Kaufman the product of his environment and his prejudices? Was he at all swayed by the prevalent hysteria? Did he tend to take on the role of a partisan against the accused, and did he merge the functions of judge and prosecutor?

There was at the Brothman tryout a passage of testimony and colloquy which was later repeated almost verbatim at the Rosenberg trial. By comparing Kaufman's conduct during these passages in both trials, we can see the extraordinary extent of his prejudice.

In the Brothman trial it occurred when Gold weakened his entire story of prewar espionage by admitting that numerous American engineers had been employed in the Soviet Union to build industrial plants. Here is the defense pinning Gold down to a further admission of the friendly relations between the U.S and U.S.S.R. during this period:

Q. [Kleinman]: It was also during this period that you knew that Amtorg Agency was going out into the open markets and purchasing various things like steel and rubber, chemicals, industrial equipment, to ship to Russia. Isn't that so?

A. [Gold]: That is correct.

*U. S. v. Marzano, 149 F. 2d 923, 926; Adler v. U. S., 182 F. 464; Frantz v. U. S., Gomila v. U. S.

Thus the defense is proving the fact that there was no logic whatsoever during these years for the Russians to employ spies such as Gold and Brothman to obtain industrial secrets. But Kaufman, unwilling to permit so favorable a fact to the defense to remain in the jurors' minds, interjects:

The Court: Wasn't there a period there when Russia was an ally of Germany?

The Witness: There was.

The Court: When was that?

The Witness: From about 1939 to 1941, I believe, until the 22nd of June, 1941.

Mr. Saypol: May I state the dates since they are matters of common information?

The Court: Yes.

Mr. Saypol: The Soviet-Nazi Pact was in effect from August 24, 1939 until June 22, 1941.

So far, we see all three — judge, prosecutor and self-proclaimed spy — in full accord that Russia and Germany had been allies, which, of course, was a point designed to place Brothman in the enemy camp. But the defense counters:

Mr. Kleinman: Your Honor perhaps states Russia was an ally of Germany. I didn't quite get it.

The Court: That is the way I put the question.

Here we notice that, even when Kaufman is challenged, he shows no willingness to entertain a correction. That is the way he has put it and that is the way history has to be. However, Saypol, evidently concerned about possible reversal now that the defense has questioned the distortion, hastens to correct Kaufman:

Mr. Saypol: There was some agreement, they were never allies.

The Court: I will accept your statement that they had a pact.*

It is indicative of Kaufman's tightly shut mind that he just cannot bring himself to admit error even when it is Saypol who corrects him. In this regard, he reflects the pattern of thinking which has become the stock formula for establishing "motive" for Communists accused of committing espionage. This formula was propounded by Whitaker Chambers in his rationale explaining his decision to expose Alger Hiss and others as "traitors" at the outbreak of World War II:

*Brothman record, pp. 695-697.

"Specifically, I was afraid that, with the Communist-Nazi Pact, the Soviet Government and the American Communist Party would at once put their underground apparatuses at the service of the Nazis against the United States. . . . To prevent that, I had decided to do the only thing that I could do. I had decided to become an informer."*

It is hardly necessary to point out that throughout World War II, indeed until this date, there has never been the slightest evidence to support this fantastic charge.

Before turning to the Rosenberg trial where we will see how this juggling of historical facts is further utilized, let us glance at the "Treaty of Non-Aggression Between Germany and the U.S.S.R.," the exact terms of which were reprinted in every major newspaper in the United States and were certainly available to Judge Kaufman before the Rosenberg trial. In the first place, the text of this treaty does not contain a single word or phrase conveying the meaning of "allies." According to Frederick L. Schuman, Professor of Government at Williams College, within a week after the signing of the treaty Molotov's denial of any alliance was firmly announced:

"... The Soviet Union is not obliged to enter a war on the side of England against Germany, nor on the side of Germany against England. . . ."

Far from being allies, Professor Schuman discloses that Germany and Russia were literally at swords' points throughout this period of "unbeautiful friendship." Giving many instances of their mutual hostility, Professor Schuman comments:

"The constant misrepresentation of the Nazi-Soviet Pact as an 'alliance' and the distortions of its meaning by . . . anti-Soviet publicists cannot alter this judgment among those concerned with facts rather than fancies.

"Chamberlain's policy of fostering a German-Soviet war with the Western Powers neutral was a failure, ending in Soviet neutrality. . . . Stalin's policy of self-protection against the Tory-Nazi threat . . . gained almost two years of precious time to prepare against attack. . . ."

Now let us turn to the Rosenberg trial to see how the team of Kaufman and Saypol again used this formula of Russia and Germany

**Op. cit.*, p. 453.

†Frederick L. Schuman, *Soviet Politics at Home and Abroad*, Alfred A. Knopf, New York, 1946.

as "allies" to prove treasonable intent. Elitcher, was on the stand. He was being asked about Communist Party meetings at which Saypol testified. At that time, Judge Kaufman had overruled a motion for a mistrial on the basis of prejudicial testimony by supporting the

Mr. Saypol: . . . I am going to prove common association, common

However, Elitcher describes only his "news events" and the reading of articles. "Did you receive any instructions?" Kaufman asked. Elitcher said, "No," but it turns out to be only "a suggestion" to attend the Mobilization, and "a suggestion" to attend the American Youth Congress.*

Finally Saypol loses patience. Nothing is going to happen involving any "intent," or that "these instructions via the party 'apparatus' to the man tryout: he resorts to the same political juggling

Q. [Saypol]: At this time do you recall anything in respect to the Hitler-Stalin pact?

A. [Elitcher]: I think —

Mr. E. H. Bloch: Objected to as immaterial to the issues in this case.

The Court: Overruled.

Mr. E. H. Bloch: Exception.

[Elitcher]: Well, at the time, the

The Court: Will you fix the time?

Q. [Saypol]: 1939 and 1940?

A. [Elitcher]: Yes, sir.†

So far we see Kaufman using the same formula at the Brothman trial when he asks Elitcher. However, Elitcher isn't as ready with the exact date. See Saypol gingerly prompting him and then

But now comes something that almost no one in the trial record one is reading, for Saypol re

Mr. Saypol: I have the official date of the Hitler-Stalin pact if it should go into the record. It was August, 1939. I think it was August, 1939 to July

*Record, pp. 218, 226.

†For the testimony regarding this subject see

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d, pp. 226-228.

Q. [Saypol]: Were any instructions issued by the chairman with respect to the attitude of the members of the cell in so far as the attitude toward Russia was concerned in the light of the existence of the Hitler-Stalin pact?

Now at long last, Elitcher "recalls" something that might be regarded as "instructions," and proceeds to disclose the party's "attitude" during this period:

A. Well, the pact was in effect and support was to be obtained for the pact for the Soviet Union's position, and we were to talk with people and to get general support for the existence of the pact and its aims.

Q. [Saypol]: *In the course of that pact, of course, Russia was an ally of Hitler, isn't that so?* (Emphasis added.)

Here we see the roles reversed! Instead of Kaufman being the "feedman," it is Saypol, who only four months ago affirmed that the Soviet Union and Nazi Germany "were never allies"! Observe also that Elitcher's so-called instructions have nothing whatsoever to do with espionage. "To talk to people" — in other words, to clarify to friends and acquaintances the position of Soviet diplomacy — incidentally *five years before* the alleged conspiracy — scarcely constitutes "intent" to commit espionage!*

At this point in the record we find the defense objecting to any continuance of the discussion:

Mr. E. H. Bloch: I object to the question on the ground that that [the matter of the "allies"] not only is not the fact; it involves political controversy and discussion outside of the issues in this case.

And now Judge Kaufman, who only a few moments ago overruled Bloch and allowed Saypol carte blanche even though he knew very well what was coming next, suddenly retreats:

The Court: I sustain the objection. Well, the fact is that there was a pact in existence between Germany and Russia at that time, is that correct?

The Witness [Elitcher]: That is correct.

*It will be recalled that when Hitler sent Hess to make a "deal" in England, many American and foreign statesmen were also *talking to people* about the "phony war" and condemning violently the Munichmen for their secret attempts to negotiate a peace with Hitler. Such attempts were greatly thwarted, Professor Schuman shows, by confidential warnings from our own State Department to the Soviet Union concerning Hitler's invasion plans. (*Op. cit.*, pp. 413-414.)

Note that Kaufman managed to get in the same carping last lick he resorted to at the Brothman trial. The exchange, of course, was meant not only to weaken the force of Bloch's objection but to cover himself for having permitted the discussion in the first place. Whereupon Saypol was inspired to do likewise:

Mr. Saypol: That is no different from what I asked, if the Court please.

The Court: Well, he didn't like the way you had asked it. Is this a convenient place to pause? . . . Ladies and gentlemen, you may retire to the jury room. (Short recess.)

In the light of the Brothman record, the close teamwork between Kaufman and Saypol in the Rosenberg-Sobell trial is clearly exposed. Regarding Saypol's effrontery, comment is hardly necessary, but we must be concerned with this judge, who sentenced the Rosenbergs to death with the pious phrase "I have searched my conscience." Only four months before, we saw him introduce this precise technique to prejudice the jury's minds against Brothman. Now here again, not only does he encourage Saypol to repeat the maneuver, but he adds snide insult to irreparable injury by ridiculing the defense with the remark, "Well, he didn't like the way you had asked it." And, evidently to ward off protest, he hastily calls a strategic recess.

Such, then, was the judge who claimed to have given the Rosenbergs and Sobell a fair and impartial trial — a judge who was as predisposed against them as was Judge Webster Thayer against Sacco and Vanzetti with his infamous promise made at his Boston club regarding the death sentences he planned to give "those anarchist bastards."

*"An indefinable tenseness pervaded the courtroom.
... The silence was extraordinary. . . ."*

— New York Times, March 7, 1951

"... The influence of the trial judge on the jury is necessarily . . . of great weight and jurors are ever watchful of the words that fall from him."

— Bollenbach v. U. S., 326 U. S. 607 (1946)

IT WAS exactly 10:30 A.M. and the bell of the nearby St. Andrew's Church had just struck the half-hour when the bailiff came through the judge's door. An instant later he was followed by the short, black-robed figure of Judge Kaufman, almost dwarfed by the high, wide bench.

All three defendants had wondered what manner of man was this Irving R. Kaufman. Certainly, he was young for a Federal judge, appearing much less than his forty years. He was a little man, at most five feet six inches; with brown eyes, black hair and wearing glasses. There was a wide mouth with a somewhat petulant lower lip and unusually heavy jaws which he constantly kept champing. To Mr. Bloch, Julius stated that Kaufman looked like a cross between an austere rabbinical student and a cherub-faced buck sergeant.

About three hundred assembled talesmen waited for the clerk to spin the drum and call out their names for the first panel of prospective jurors. Directly in front of the bench were the two legal tables, the one containing Saypol, Lane, Cohn, Kilsheimer, Foley and Branigan for the prosecution; the other containing Emanuel Bloch together with his father, Alexander Bloch, representing the Rosenbergs; and Edward Kuntz with Harold Phillips, representing Sobell. Alongside their respective attorneys sat the Rosenbergs and Sobell. Down front were the packed reporters. Circulating among the crowded spectators in the rear were the grim-faced marshals and court attendants. Despite the deceptive quiet, the atmosphere in the huge, dimly lighted courtroom was heavy and ominous.

One cannot help wondering what Judge Kaufman felt at this moment when he first looked down at the Rosenbergs. To the press,

they appeared surprisingly calm and colorfully struck with Ethel's tiny figure, her Julius was described simply as "tall, plainly, in Judge Kaufman, their name 'duced some sort of reaction. The coincident in-laws on his wife's side were similar the defense.*

ii

"Not a single jury in the city of New York has shown any reaction amounting to emotion. Strange, or rather strange."
— Indiana Journal

All that day and half the next the clerk called the names of the talesmen. As the first places in the jury box, the Court outlined

"It is our purpose and object to secure no bias, no prejudice as to either side. Put it another way, the minds of the jurors are as a white sheet of paper with nothing on it. . . .

"When you are asked to serve on a jury, put all your prejudices behind. . . . It is just figures. You add a column of figures."

*No one connected with the defense was aware of this writer's chance upon it. It was a year and a half after the trial. On January 11, 1953, known to the public in an article by Pilat. In this article (evidently the result of an interview) that Judge Kaufman's efforts to be totally impartial were hampered by the fact that the Rosenbergs were sympathetic.

It seemed to this writer, however, that the trial took place in Kaufman. After consulting with the record, the opinion was that instead of being impartial, as was far more likely, that Kaufman's attitude was that he would have the strongest possible suspicion that sympathy existed, and it was toward to emphasize the wide gulf between them. He found so "loathsome," and the respectable. †Record, pp. 44 and 57. Note: For examination

used. They were particularly and pleasant features." and bespectacled." Cersenberg" must have pronounced that all his principal named was unknown to

ber was Jewish, and this in which has a Jewish population-third of the total population sinister, if you ask us."

h Chronicle, March 7, 1952

ound the drum, calling out a group of twelve took their their duties:

a jury that has no feeling, of this controversy. To jurors should be the same on it, with respect to this

ry you are asked to leave like adding a column of you get a result."†

of this fact at the time of Who in October of 1952, a 1953, the fact was first made the New York Post. (interview), it was emphasized partial toward the Rosenberg name inclined him to be

ry opposite reaction would psychologists familiar with engendering sympathy, there onism would be increased. incentive to remove any possible he would lean over back- the Rosenbergs whose offense family of his in-laws.

of the jurors, see pp. 43-158.

There were other general instructions to the jurors: to make their determination on the evidence as it came from the witnesses and from no other source; to disregard gossip or newspaper talk; to remember that the indictment must not be considered evidence of guilt; to keep their minds open during the entire trial, because the defendants were to be presumed innocent unless it was established beyond all reasonable doubt that they had offended the law as charged; and finally, that the defendants stood before them "clothed with that presumption all through the trial."

In present day vernacular, there is an apt phrase to describe Judge Kaufman's conduct of the Rosenberg trial. It is called "going through the motions." It was also described by Judge Jerome Frank of the Court of Appeals when he weighed the value of Judge Kaufman's charge to the jury:

"It may be that such warnings are no more than an empty ritual without any practical effect on the jurors."*

To test the truth of this one need but ask how was a Rosenberg juror in the Cold War atmosphere capable of leaving all his deep-rooted prejudices behind? Where was he supposed to tuck them away temporarily? How was he suddenly to become open-minded toward any one called Communist, when all his life his mind had been locked tight against any detached thinking about them — when almost every newspaper, magazine, television or radio commentator, church sermon, employer's speech, government spokesman, had done so much to fill his mind with fear and loathing of anything connected with Communism?

Thus, there was not the slightest semblance of reality to the instructions. And not only did Kaufman know this, but he knew that the jurors were aware that he knew it and would be sure to take it all with tongue in cheek. Certainly he left them little room for doubt when they saw the careful screening process which followed — when they saw that no liberal-minded person, no person even slightly suspected of dissent and non-conformity, would remain among the chosen twelve. Which brings us to the questions:

How was it possible that not a single jury member or alternate was Jewish when more than thirty per cent of the population of New York City happens to be of that faith or ancestry? And since a goodly percentage of the talesmen present were Jewish, how was it that all of those called up were so easily eliminated?

*Record, p. 1656.

To accomplish this end, Kaufman and Saypol made use of a precedent laid down during the first Smith Act case, which afforded them a device to screen out most of the "undesirable" talesmen by simply inducing self-censorship.

This precedent, of course, was the lengthy list of 105 "subversive" organizations published by Attorney General Tom Clark, which was read aloud to the jury. It ranged from the American League against War and Fascism down to the Veterans of the Abraham Lincoln Brigade, and included the American Jewish Labor Council, the International Workers' Order, the Jewish Peoples Committee, and the School of Jewish Studies. After the list was read, Judge Kaufman asked:

"Well now, the question is whether any juror has been a member of, contributed to or been associated with, or any member of his family, or close friend, with any of those organizations that have been just read to you."

It is important to recall the degree of self-intimidation which existed during this period of war hysteria among all Americans; with the defendants being Jewish there is little doubt their average co-religionists felt especially sensitive to the danger of "guilt by association." Certainly the reading of this their "verboten" list could not but make any prospective juror, Jew or Gentile, take pause. For even though he might be certain no member of his family had ever contributed to or associated with any of these organizations how could he be sure that some close friend was not "contaminated," possibly in his youth? What if such a friend or some distant relative had once contributed to one of the organizations that had fought Hitler, Chiang Kai-shek, Franco, racial discrimination, Southern lynching, rent gouging; or to an organization that had raised funds for civil rights and refugee relief?

Hence each Jewish talesman, keenly aware of the prevailing anti-Semitic charge that Jews and Communists were synonymous, felt sufficiently warned to eliminate himself. Why look for trouble and needless exposure in this "era of suspicion"? Why not simply bow out on grounds that were acceptable? Such grounds could be entirely truthful, but at least they would not entail "guilt by association."

And so we find many such talesmen excused, for example, because of their sincerely stated opposition to capital punishment.* One prospective juror, Philip Frankel, a World War I veteran, candidly stated the possibility that his past might have been politically contaminated:

*These included Hyman Scher, Joan Moisseiff, Ely Honig, Samuel Begun, Louis Hertz, Bernard Unger, Bernard Sabin.

"I think, your Honor, I might have subconscious fellow-traveler bias in view of my background. . . ."

As for those talesmen who felt themselves politically pure and indicated their willingness to serve, we find them promptly eliminated either by Saypol's challenges or by Kaufman's, for no discernible reason other than that under discussion. These exceptions were Mrs. Edna Pincous, Mrs. Esther Field, Mrs. Rhea Kobus and Mr. Morris Haber. The examination of Mr. Haber is worth noting:

The Court: How about you, Mr. Haber, can you decide this case on the evidence?

Mr. Haber: Yes, sir.

Q. Mr. Haber, tell us about your family, please.

A. I have three children; one is 20, one is 16 and one is 11.

Q. What does your son of 20 do?

A. He is now learning a trade, going to school, learning a trade.

Q. Learning what trade?

A. Carpentry.

Q. You are a furrier?

A. That's right.

Q. With what company?

A. Rudisch & Hoffritz.

Q. How long have you been with that firm?

A. Three years.

Q. Were you a furrier before that?

A. That's right.

Q. With what firm were you?

A. Goodman & Sillinger, 13 years.*

In rather sharp contrast to Mr. Haber's dismissal, the record discloses that Mr. Louis Friedlander seemed to meet with no opposition at all from Saypol or Kaufman. The reason becomes apparent when we turn to his background:

Mr. Friedlander: . . . I would like to state that the company I am connected with was an agent for the Rubber Reserve Company during the war.

The Court: By reason of such association . . . do you feel that you could nevertheless sit in this case with propriety and render a verdict based upon the evidence and the evidence alone?

*It is a general practice in Federal courts for the judge to conduct the voir dire examination of jurors. Most state courts (and some Federal judges) allow the more modern and superior method of examination by opposing counsel.

A. Yes, sir.

Q. What was the name of that com

A. Nat E. Berzen. . . . I am vice Company.

Q. Will you tell us again what the

A. It deals in scrap rubber and cre

Q. How long have you been with

A. 27 years.

Evidently the defense, feeling that a company associated with a government is as defective as he believed himself to be, de

It should be pointed out that was with open distrust by the prosecution and not. For example, here is the unacceptable Albert Wallace:

The Court: Mr. Wallace, you are a

A. I am.

Q. For the United Fruit Company?

A. That's right.

Q. How long have you been so eng

A. Pretty near four years.

Q. Are you married?

A. I am.

Q. Is your wife employed?

A. As a domestic.

Q. As a domestic?

A. Yes.

Q. Have you any children?

A. One.

Q. School age?

A. Yes.

This was Mr. Wallace's total examination; later we see the clerk calling out:

"Morris Haber and Albert Wallace ment."

To return to the original question: W Kaufman were so determined to have an sibly for a vice president of a rubber comp jurors would be more merciful than Cathol Their reasoning was simply that there was

a possible hung jury. One may safely venture that Kaufman and Saypol would have been overjoyed with the inclusion of the *right, dependable* kind of a Jew. For then the Government would have had yet another weapon to use in reply to possible charges of anti-Semitism.

But what if, despite all precautions, the *wrong* kind of Jew were chosen? What if such a juror still happened to remember what Hitler had done to his 6,000,000 co-religionists in the name of saving Western civilization from the "Jewish rulers of the Bolshevik center"?* What if such a juror saw in the Rosenberg case an ominous parallel to the Nazi charge that all Jews were traitors? Suppose there were a split verdict with one Jew voting for acquittal and eleven Gentiles for conviction? Would this isolation not be equivalent to an admission of minority persecution? From the viewpoint of the American Jewish Committee, which had already recognized the urgency of having someone like Kaufman preside over the Rosenberg case in order to obviate all possible charges of anti-Semitism, such a result would be nothing less than a disaster.†

It may be justly contended that the Government had every right to screen out jurors suspected of latent prejudice in favor of the defendants. *But, on the other hand, we will see that it made certain to select a jury with the strongest prejudice against the defendants.*

Immediately following the Attorney General's list, Judge Kaufman asked whether any of the jurors had read the articles of:

"Westbrook Pegler	Howard Rushmore
Walter Winchell	Louis Budenz
John O'Donnell	Fulton Lewis, Jr.
Frederick Woltman	Elizabeth Bentley"
Nelson Frank	

And when all the jurors had indicated they were more or less familiar with the opinions of these popular columnists, the Court asked:

"Now, as a result of anything you have read in the columns of these newspaper men or . . . heard on the radio . . . have you

*From Hitler's proclamation on the invasion of the Soviet Union. (See *New York Times*, June 23, 1941.)

†The American Jewish Committee is a self-appointed group of reactionary Jews who may best be compared to the "Judenrat," those benighted German Jews who sought immunity from Hitler by supporting his campaign against "Jewish Bolshevism."

Note: In John Hersey's superb study of the Polish "Judenrat" in *The Wall*, Knopf, New York, 1950, there is the almost perfect parallel to the American "Judenrat."

become so prejudiced that you could not render a verdict in this case based upon the evidence and the evidence alone?"

In answer to this question, the record gives us this assurance:

"Prospective jurors indicate in the negative."

In addition to the Attorney General's list, the prosecution submitted to the jury a list of 140 publications including *In Fact*, the *National Guardian*, *Cafe Society*, and the Commonwealth College in Arkansas. To offset these, the defense submitted a list of fourteen openly biased publications, including the *Brooklyn Tablet*, the *Hearst Daily Mirror* and *Journal-American*, *American Legion Monthly* and *Red Channels*. Whereupon Judge Kaufman read the combined list and asked:

"As a result of having read anything in any of these papers, would you be so prejudiced that you could not render a verdict in this case based on the evidence and the evidence alone?"

After all had "indicated in the negative," a Mr. William Baring-Gould stated that he had been previously employed by the Hearst newspapers as a member of their advertising department, and that at the present time he was working for *Time* magazine.

The Court: As a result of your past association or your present association do you feel you could not keep your mind open until all the evidence is in?

[Mr. Baring-Gould]: I feel I could.

Later on, the defense requested that Kaufman ask Mr. Baring-Gould whether or not he subscribed to the editorial policy of *Time-Life* publications:

The Court: . . . Editorial policy with respect to what?

Mr. E. H. Bloch: With respect to foreign policy of the United States and the policy adopted by his employer generally in the field of international relations.

The Court: You may consider that question put to you.

[Mr. Baring-Gould]: In general, I believe I do.

Mr. E. H. Bloch: I challenge for cause.

The Court: Denied.

Mr. E. H. Bloch: Exception.

Whereupon, the defense was forced to use up another of its challenges to dispose of Mr. Luce's advertising representative.

In contrast to Kaufman's approval of Mr. Baring-Gould, let us see what happened to a Mr. Donald S. Layman, who volunteered that he had once read *In Fact* out of "curiosity" and only "occasionally":

The Court: As a result of having read that magazine, have you come to the jury box with any particular prejudice for or against either side?

Mr. Layman: Not for or against either side, no.

The Court: Do you feel that you could leave your mind open and decide this case based on the evidence and the evidence alone?

Mr. Layman: Yes.

Later on, however, we find Kaufman announcing that he has excused Mr. Layman, whereupon the defense inquired:

Mr. E. H. Bloch: May I direct an inquiry to the Court: Is that a peremptory challenge on the part of the Government?

The Court: No, it is my challenge.

The Clerk: Donald S. Layman is excused.

Another prospective juror, Mr. Carl O. Roach, was considered by Kaufman as unqualified to serve on two counts. He was a confessed graduate of C.C.N.Y. and an admitted subscriber to the *National Guardian* "for a period of three months."

Returning to the list of "verboden" organizations, it must be emphasized that the screening process eliminated every possible liberal or progressive citizen (whether Jewish, Catholic or Protestant) of foreign birth or descent who might have been:

1. An anti-Monarchist Yugoslav or Croatian, or
2. an anti-Horthy Hungarian, or
3. an anti-Mussolini Italian, or
4. an anti-Metaxis Greek, or
5. an anti-Franco Spaniard, or
6. an anti-Hitler German.*

In all justice to the prosecution, it should be stated that the Attorney General's list did include three native Fascist organizations:

- *By virtue of association with these "subversive" organizations:
- American Committee for Yugoslav Relief
 - American Women of Croatian Descent
 - Hungarian-American Council for Democracy
 - Joint anti-Fascist Refugee Committee
 - American Council for a Democratic Greece
 - Macedonian-American Peoples League
 - Comite Coordinator Pro Republica Espanola
 - American League against War and Fascism, etc.

the German-American Bund, the Ku Klux Legion of America. Therefore, one must c was made in the interests of fair play; to be

What must be clearly understood is a process insured the presence of jurors favorable of the Government by the simple method to evaluate his own prejudices. Hence, the bias eliminated themselves. For example: cousin killed in the war and thought he m a Mr. Tormey, who was frankly anti-Ga excused; and a Mr. Fleck, who declared th cumstances" he did not feel he could give equitable opinion."*

Let us grant that those jurors who were h sincere in their self-evaluation. Yet, how we know who will insist they are the soul to mind the statement attributed to an em producer during the appearance of the "I Parnell Thomas' un-American Activities

"If I had my way," he declared heatedly of those Commies up against the wall and "Why would you be so extreme?" a she "Because I've always been against force

Somehow, despite the many called, only the fine sieve.† And since it was Saypol of them, we may presume that he feared find it too difficult to bring in a conviction death a young wife and mother of

Nevertheless, a lady was found, who indeed one who had enjoyed considerable Juror. Her name was Mrs. Dammas. Here

*In addition, a Mr. Paplinger and Mr. King, were frankly opposed to the death penalty.

(Note: Throughout the examination, the p Kaufman again and again that "The matte pletely within the province of the Court.")

Mr. William Melvin, who had six children example of those who could not afford the b †One alternate juror was also a woman: Mrs worked for the Consolidated Edison Company Army's Chemical Corps.

Klan and the Silver Shirt
 onced that some attempt
 exact, at a ratio of 3 to 105.
 hat the entire screening
 rably disposed to the side
 l of asking each prospect
 se honestly aware of their
 a Mr. Batch, who had a
 ight not be open-minded;
 nmunist and asked to be
 at "under the present cir-
 the defendants "a fair and

nally selected were equally
 many bigoted people do
 of tolerance? There comes
 inent Broadway theatrical
 Hollywood Ten" before J.
 Committee.

, "I'd put every single one
 fill 'em full of lead!"
 cked listener asked.
 and violence."

one woman passed through
 who challenged almost all
 that women jurors might
 n which could send to her
 ildren.

y and capable of serving —
 le experience as a Grand
 is her background:

s well as a half dozen others,

rs were reminded by Judge
 of punishment [was] com-

and nine dependents, is an
 xury of jury duty.

Edna Allen, whose husband
 y, and who had a son in the

[Mrs. Dammas]: . . . My son-in-law is in the National Guard,
 that is all, and I have served on the Grand Jury, that is all.

The Court: Bronx County Grand Jury?

Mrs. Dammas: Bronx County, in May, 1950.

Q. By reason of either of those facts. . . ?

A. It wouldn't have anything to do with it, as far as I am con-
 cerned. I will listen to the evidence.*

Further questioning disclosed that she had been employed as a
 switchboard operator, and that her husband was a dispatcher for
 the Interborough Rapid Transit Company. Shortly thereafter we
 find that although the Court advised both the prosecution and the
 defense that each had its last challenge coming up, both sides waived.
 In discussing this point with Mr. Bloch, this writer learned that he
 and his associates were so relieved at finally seeing a woman in the
 jury box that they were willing to overlook her somewhat forbidding
 background. Had they used up their last challenge on her, the result
 might have been not only an out-and-out hostile juror, but an all-
 male jury.

One Negro, Mr. Emanuel Clarence Dean, also managed to make
 the final twelve, and here, too, the defense was so relieved to obtain
 one member of a minority race that it was willing to risk his poten-
 tially prejudicial background:

The Court: Mr. Dean, what do you do?

A. I work for the Consolidated Edison Company.

Q. Will you speak up a little louder, please?

A. Consolidated Edison Company, demonstrator.

Q. How long have you been with them?

A. 11 years.

If it should be asked why the prosecution did not exercise its last
 challenge against Mr. Dean, the same reasoning the defense used was
 evidently applied in reverse. For with Mr. Dean, Saypol readily saw
 the advantage of having another employee of the Consolidated Edi-
 son Company.† If he exhausted his last challenge on Mr. Dean, his

*In view of the prolonged period persons usually serve on Grand Juries,
 Mrs. Dammas would appear to be almost a professional juror.

†It is worth considering how this single Negro must have felt among his
 eleven white co-jurors. Certainly, his viewpoint must have been that of
 the average Negro in relation to the white man's world, with himself on
 trial, so to speak. As an employee of the Consolidated Edison, it is certain,
 too, that he must have been aware of the dangers of "voting the wrong
 ticket." He had put in eleven years to rise to the position of a demon-
 strator, evidently in the selling of electrical appliances to Negro clientele.
 Such a position is a prized one among a "second-class" citizenry, who, for

replacement might be a woman such as Mrs. Field whose husband
 was born in Russia — or a man like Mr. John C. Richardson, whose
 wife's mother had been born in Russia — or someone presenting an
 even more "dangerous" background.

In any event, let us present the chosen twelve — those twelve who
 had not permitted themselves to be biased, prejudiced or influenced
 by anything they had ever read or heard against the alleged Com-
 munist atom spies and traitors. Here they are:

No. 1: (Foreman) Vincent J. Lebonitte. Residence: White
 Plains. A manager for an R. H. Macy branch in that suburb.

No. 2: Richard Booth. A caterer for a tennis club in Forest
 Hills, Long Island, called the "Seminole Club."

No. 3: Howard G. Becker. Residence: Mamaroneck, New York.
 An auditor for the Irving Trust Company for twenty-four years.

No. 4: James A. Gibbons. An accountant for the New York City
 Omnibus Company for twenty-eight years.

No. 5: Charles W. Christie. An auditor for the Tidewater As-
 sociated Oil Company, which had "contracts with the Govern-
 ment" to do war work.

No. 6: Harold H. Axley. A restaurant owner, previously em-
 ployed as a civilian expert in the finance department of the Army
 from 1942 to 1946.

No. 7: Emanuel Clarence Dean. (Already mentioned.)

No. 8: Chauncey E. Miller. Residence: Scarsdale, New York.
 A secretary of the Board of Commissioners of Pilots, an agency
 of the State of New York for twenty years. A member of the Ameri-
 can Legion.

No. 9: Mrs. Lisette D. Dammas. (Already mentioned.)

No. 10: Charles J. Duda. Residence: Dobbs Ferry, New York.
 A bookkeeper for Davis and Lawrence Company.

No. 11: James Mitchell. An accountant with Harris, Kerr,
 Forster & Company. When previously employed by the U. S. Post-
 office, he was passed by "the Loyalty Probe."

No. 12: James F. Tessitore. Residence: Mount Vernon. An esti-
 mator for the Alco Gravure Division of Publications Corporation.
 During World War II, "printed millions of topics for the Govern-
 ment."

the most part, can only look forward to menial jobs such as porters, ele-
 vator operators and the like.

It is the popular notion that a Negro juror ought to be inclined to
 favor the underdog and recognize the persecution of others. However,
 Government prosecutors, in political trials in which there have been a
 sprinkling of Negro jurors, have won an uninterrupted series of convictions.

As for the alternate jurors, who had no voice in the verdict since no member of the regular jury fell sick or was otherwise excused, these were:

Alternate No. 1: Mr. John F. Moore. Residence: Bronx; a business representative for the Consolidated Edison Company.*

Alternate No. 2: Mr. Emerson C. Nein. Residence: Bronx; an officer and auditor for the Empire State Bank.

Alternate No. 3: Richard Lombardi. Residence: White Plains Road; a government employee (Postoffice).

Alternate No. 4: Mrs. Edna Allen. (Already mentioned.) Residence: Bronx.

iii

"The most dangerous enemy to truth and freedom amongst us is the compact majority."

— Henrik Ibsen

Such then was the jury chosen to consider the fate of the Rosenbergs and Sobell. Fulfilling the instructions of the Court, all of them swore that their minds were completely open: Not one had formed any opinion favorable to the Government or unfavorable to the defendants. Not one felt friendly or unfriendly to Communism because of membership in such organizations as the American Legion.

And such was the jury of their peers and equals: Almost each and every one representative of the safe, dependable, corporation-employed "experienced" juror type.† So many of them accountants, auditors or executives, but not one employed in the arts and professions. No school teachers or writers, no doctors or dentists, no journalists or editors, no social workers, no architects, no scientists, no nurses, no engineers, no actors, singers or musicians. No one in the allied arts or crafts, such as a jewelry designer or an X-ray technician. And certainly, no manual worker such as a bricklayer, a carpenter, an electrician, a furrier, a longshoreman, a plumber, or a welder.

In sum total, all twelve jurors were politically pure and inviolate. And with all of them so certain that their minds were as unsullied as "a white sheet of paper with nothing on it," perhaps Judge Kaufman was intuitive in his choice of words addressed to all these experts in auditing — that their task was merely a matter of adding a column of figures and getting a result.

*Together with Mr. Dean and Mrs. Allen — this makes almost a 19 per cent representation for the Consolidated Edison Company.

†"Many of you are experienced jurors. . . ." (See statement by Saypol. Record, p. 177.)

13

"'Treason!' Cried t

i

*"Treason against th
only in learying Wa
to their Enemies, gi*

*"No Person shall b
on the Testimony
overt Act, or on Co
phasis added.)*

— United Stat

FROM the very outset of trial prosecu-
man were determined to transform it in
deprive the defendants of the safeguard
they did this with full knowledge of the p
involved is amply proven by their statem
will present in a moment.

What was the precise charge against t
on a violation of Sub-section (a) of Secti
of 1917:

*"Whoever, with intent or reason to
to the injury of the United States or t
nation communicates, delivers or tr
government. . . ."**

Now let us compare this with the ex:
No. 1, 2 and 3, all of which remain

*"On or about June 6, 1944 . . . Juli
conspire . . . with intent and reason
used to the advantage of a foreign n
Soviet Socialist Republics . . ."*†

At once we notice that the crucial cl
United States — has been omitted. In oth

*Record, p. 55.

†Record, pp. 52-53.

Speaker"

United States, shall consist against them, or in adhering to them Aid and Comfort.

convicted of Treason unless two Witnesses to the same offense in open Court." (Em-

Constitution, Art. III, Sec. 3

Saypol and Judge Kaufman a trial of treason and yet of the Constitution. That emotion-rousing potentialities in the record which we

defendants? It was based on 32 of the Espionage Act

believe that it is to be used to the advantage of a foreign country . . . to any foreign

wording of Indictments same in this respect:

Rosenberg [et al.] . . . did believe that it would be to wit, the Union of

se - to the injury of the words, there was no accu-

sation that the Rosenbergs and Sobell had ever intended to do anything to injure the United States.

Why did the Government omit this clause? For the simple reason that the Soviet Union was not an enemy nation, but on the contrary was a wartime ally in 1944-1945, the principal period of the alleged conspiracy.

Hence there did not exist, even by the Government's charge, the slightest suggestion of betrayal. The central concept of treason is betrayal of allegiance. That is why it is considered "a mortal accusation," and carries so terrible a stigma that it is almost impossible to erase even when proven groundless.

For this reason and because the mere accusation of treason carries such a "peculiar intimidation," it was specifically named by the Founding Fathers as the *only* offense in the Constitution:

"An exclusive definition is given for the offense, and the method of obtaining a conviction is then set out in meticulous detail.

"Such deep concern with this one crime came about partially as the result of the insidious nature of the crime itself, and partly because experience had shown that an extremely broad power to punish for treason might become an instrument of oppression."*

Why were the framers of our Constitution so deeply concerned that some future governing body might use it as an instrument of oppression? Because every one of them had a price on his head as a traitor for "imagining the death" of George III of England:

"It is true that in England of olden times men were tried for treason for mental indiscretions such as imagining the death of the King. But our Constitution was intended to end such prosecutions."†

On May 14, 1787, George Washington, Thomas Jefferson, Benjamin Franklin and the fifty-two others of the Constitutional Convention considered the Statute of Treason of Edward II most cautiously before revising it for inclusion in the Constitution. After excluding the first clause - that of compassing or imagining the King's death - they retained only the two clauses subject to concrete evidence: (1) partaking in an act of war against the United States, and (2) adhering and giving aid and comfort to our nation's enemies.

*U. S. Department of Defense letter submitted to a Congressional hearing on Feb. 3, 1954. (*I. F. Stone's Weekly*, Apr. 5, 1954.)

†From Federal Judge Youngdahl's ruling on the Owen Lattimore case, in which he declared invalid a majority of the Government's indictment counts. (*New York Times*, May 3, 1953.)

No matter what hostility may have been engendered against the Soviet Union by 1951, history records the following:

"The Russians were magnificent allies. They fought as they promised and they made no separate peace."

- Secretary of War Henry Stimson

"The hopes of civilization rest on the worthy banners of the courageous Russian Army."

- General Douglas MacArthur

"It is the Russian Army that has done the main work of tearing the guts out of the German Army."

- Winston Churchill

Even with such dimly-remembered facts, it would have been impossible for the Department of Justice to charge the Rosenbergs and Sobell legally with the crime of treason, *i.e.*, with adhering and giving aid to an enemy nation. Yet, as we shall see, they were tried for nothing less. In fact, they were tried for something more than treason, because *throughout the trial* their alleged membership in the Communist Party was made synonymous with "imagining the death of the King." Here, in part, is Saypol's opening statement:

"... The loyalty and allegiance of the Rosenbergs and Sobell were not to our country. . . .

"... The primary allegiance of these defendants was not to our country. . . .

"The evidence will show . . . these defendants joined with their co-conspirators in a deliberate, carefully planned conspiracy to deliver to the Soviet Union, the information and the weapons which the Soviet Union could use to destroy us.

"... Rosenberg, you will hear, thought out this ring . . . devoted himself to . . . betraying his own country.

"... The Rosenbergs and Sobell thought they [the recruits] would be ripe for a proposition to betray this country. . . .

"... These traitorous Americans. . . .

"... The Rosenbergs persuaded David Greenglass . . . to play the treacherous role of a modern Benedict Arnold. . . ."* (Emphasis added.)

And now, prosecutor Saypol concludes with a promise that the evidence will prove the crime which is considered "the most serious

*Record, pp. 177-184.

against the safety of the State."* Indeed, Saypol almost uses these very same words, to wit:

"The evidence of the *treasonable acts* of these three defendants, you will find overwhelming.

"The evidence will prove to you, not only beyond a reasonable doubt, but beyond any doubt, that all three of these defendants have committed *the most serious crime which can be committed against the people of this country.*" (Emphasis added.)

Needless to say, nowhere in the entire record is there a scrap of evidence proving a single word of this appeal to mindless passion. No substantive witness, whether the Greenglasses or Elitcher, ever made the slightest mention of any treasonable intent or act on the part of the defendants. During Saypol's pyrotechnics, the defense objected strongly and demanded that Kaufman instruct the jury on the correct charge:

The Court: The charge here is espionage.† It is not that the defendants are members of the Communist Party or that they had any interest in Communism. However, if the Government intends to establish that they did have an interest in Communism, for the purpose of establishing a motive for what they were doing, I will, in due course, when that question arises, rule on that point.

After this "green light," the charge of treason dominated the entire trial and "guilt by association" became the keynote of the prosecution's summation:

Mr. Saypol: . . . What is the evidence of Sobell's participation here? The evidence is that Sobell had been an associate of Rosenberg since City College days. They were joined by the common bond of communism and devotion to the Soviet Union.

. . . It is the communist ideology which teaches worship and devotion to the Soviet Union over our own government . . . to serve the interests of a foreign power which today seeks to wipe us off the face of the earth.

*Hurst, "English Sources of the American Law of Treason," 1945, *Wisconsin Law Review* 315; Willoughby, *Constitutional Law*, Vol. 2, p. 1124.

†A moment later, Kaufman corrects himself to cite the actual charge:

The Court: . . . I think I said to the jury before that the charge was espionage. I want to correct that. The charge is conspiracy to commit espionage. (Record, p. 181.)

It would use the produce of these defendants received from them, from these traitors, from the people of the United Nations. (Emphasis added.)

Not only did Kaufman never bestir himself as to whether there was no treason trial, but he even gave it his own spin when he charged the jury:

"Irrational sympathies must not shield the defendants." (Emphasis added.)

Since we will take up Judge Kaufman's explanation of the trial fully in a later chapter, a few excerpts here show how he helped make the crime fit the punishment.

"Citizens of this country who betray their country . . . men . . .

"Indeed by your *betrayal*, you undoubtedly have stained the pages of history . . .

"We have evidence of your *treachery* . . .

" . . . Who knows but that millions more will pay the price of your *treason.*" (Emphasis added.)

Betrayal, treachery, treason! And yet nowhere in the testimony is there charged or established as to what the crime was under United States law.*

Thus, with utter indifference to the Constitution, Judge Kaufman sought, and did in fact achieve, a conviction in the Rosenberg case by giving the same offense to the jury as a conspiracy to commit espionage. And by so doing, he protected the "two-witness rule" in that clause which provides for a confession in open court to the same overt act.

Here again we see what great caution must be taken to avoid abuses such as had taken place under British law, where men were executed merely because they belonged to a certain office or on grounds of Papist leanings.† The same caution must be taken in the United States.

*In his first appeal to the Supreme Court, Mr. Kaufman said:

"Congress in passing the Atomic Energy Act of 1946, fit to prescribe the death penalty for atomic espionage. There exists an intent to injure the United States. Writ of Certiorari, No. 111, Oct. 13, 1952, p. 10.

†In late 17th century anti-Catholic England, the government invented a series of Popish Plots to hunt down Catholics and the Dissenters, then considered fellow-travelers. The execution of High Treason, which followed the execution of six others, was Oates finally exposed. (For more on this, see the next chapter.)

tution knew all too well the danger of forced confessions and therefore insisted upon full corroboration of the accusation of treason. The two witnesses could not merely testify to two or more different acts. No, both persons had to witness the same treasonable act. But, as we will see in the case of Max Elitcher, his word *alone* sufficed under the Espionage Act.

ii

"If there are still any citizens interested in protecting human liberty, let them study the conspiracy laws of the United States. They have grown apace in the last forty years until today no one's liberty is safe. . . ."

Why did U. S. Attorney Saypol avoid the charge of actual espionage and choose rather the lesser charge, that of conspiracy to commit espionage? To answer this properly, let us first see why the legal profession regards conspiracy as a "catch-all" charge, one that is generally resorted to by prosecutors when they lack evidence to prove the actual commission of a crime. According to the trial record, Saypol had not a shred of evidence to prove the commission of the crime. Therefore he turned to the conspiracy charge, *i.e.*, that the Rosenbergs and Sobell "did conspire, combine, confederate and agree," etc. In short, it was presented as an agreement between two or more persons to commit espionage, or as Clarence Darrow explains it:

"If a boy should steal a dime a small fine would cover the offense; he could not be sent to the penitentiary. But if two boys by agreement steal a dime, then both of them could be sent to the penitentiary as conspirators.

"Not only could they be, but boys are constantly being sent under similar circumstances."

By means of this device Saypol was not required to produce any evidence beyond the word of Elitcher and/or the Greenglasses, because in Federal courts, as previously mentioned, corroboration of accomplice witnesses is unnecessary. By this device, too, not only can specious evidence be introduced, but when there is an atmosphere of hostility a conviction can be obtained on the mere allegation that the accused party agreed to do something illegal.

*Clarence Darrow, *The Story of My Life*, Scribner's, New York, 1932, p. 64.

There was still another great advantage Saypol derived from the use of the "conspiracy strategy." For with this charge comes into play a unique rule of evidence not otherwise permitted in an American court of law, *i.e.*, hearsay testimony. In short, anything goes, and everything is admissible evidence. Here again is Clarence Darrow's comment:

"If A is indicted and a conspiracy is charged . . . the state's attorney is allowed to prove what A said to B and what B said to C while the defendant was not present.

"Then he can prove what C said to D and what D said to E, and so on, to the end of the alphabet . . . for as long a stretch as he cares to continue."

And now, with words that would be prophetic were it not that Darrow had to fight prosecutors and judges such as Saypol and Kaufman in his own time, we have this cogent presentation of the evil as it becomes compounded:

"To make this hearsay or gossip competent, the state's attorney informs the court that later he will connect it up by showing that the defendant was informed of the various conversations, or that he otherwise had knowledge of them.

"Thereupon the complaisant judge holds that the evidence is admissible, but if it is not connected up it will be stricken out. A week or a month may pass by, and then a motion is made to strike it out.

"By that time it is of no consequence whether it is stricken out or not; it has entered the juror's consciousness with a mass of other matter, and altogether it has made an impression on his mind. What particular thing made the impression, neither the juror nor anyone else can know."

As we saw, it was precisely in this way that Saypol and Kaufman were enabled to heap upon the defendants all the innuendo of guilt which they elicited from Max Elitcher when they led him into their version of the "Hitler-Stalin pact."

In this way, too, all of the hearsay testimony of Harry Gold and Elizabeth Bentley, *strangers* to Sobell and the Rosenbergs, was massed against them.

So great are the dangers inherent in conspiracy charges that we have this judgment of the late Justice Robert Jackson two years before the Rosenberg trial:

"The unavailing protests of courts against the growing habit to indict for conspiracy in lieu of prosecuting for the substantive offense itself, or in addition thereto, suggests that loose practice as to this offense constitutes a serious threat to fairness in our administration of justice. . . .

"When the trial starts, the accused feels the full impact of the conspiracy strategy. . . .

"[He] often is confronted with a hodgepodge of acts and statements by others which he may never have authorized or intended or even known about, but which help to persuade the jury of the existence of the conspiracy itself. . . .

*"The naive assumption that prejudicial effects can be overcome by instructions to the jury . . . all practising lawyers know to be unmitigated fiction."** (Emphasis added.)

And here, Clarence Darrow gives this further warning:

"The use of the conspiracy charge, in catching an endless number of victims and in creating penalties that have grown in number at a rapid rate, is increasing more and more each day. It took England more than a hundred years to abolish it, even after she began to agitate for its repeal.

"This crime began in the star chamber courts, where the defendant was not present in the trial, and was used to compass the death of some of the best and greatest men England ever had.

"It is a serious reflection on America that this worn-out piece of tyranny should find a home in our country."

Concluding that this "method of conspiracy" was nothing more than a modern dragnet for "the imprisonment and death of men whom the ruling class does not like," Darrow advised that it be "abolished with the thumbscrews and the racks."

We have seen how, in effect, Saypol and Kaufman turned the trial into one of treason. By calling it conspiracy, however, they obtained convictions on the basis of accomplice testimony of the Greenglasses, Elitcher and Gold. Let us therefore examine the reasons why uncorroborated accomplice testimony is universally held to be the worst possible type of evidence. The following is so lucidly stated that it is presented in full:

"Such witnesses [accomplices] are universally regarded as highly unreliable, not merely because they are self-confessed criminals and are betraying their associates, but far more because it is

**Krulewitch v. U. S.*, 336 U. S. 440, 453.

dangerously easy for them to implicate false to themselves, or to pay off some 'score' or one who in fact took no part in the crime.

"They are in a position to tell a story that is and thus much easier to tell . . . without being in cross-examination — but at the same time the story some limited but serious falsity — as, for instance, that some particular accused person really was not present, or to insert a damning account of a harmless conversation which took place, and thus to give a criminal atmosphere to the conversation.

"It is plain that Elitcher was still in the room and — as he says — was anxious to help himself. It is equally plain that there was no corroboration.

"And, as one peruses his evidence, it is not words here and there that relate to espionage which have been quite easily and neatly inserted in an innocuous story."*

iii

*"Tarquin and Caesar each
the First his Cromwell,
'(Treason!' cried the Spectator
their example."*

In the consensus of editorials which appeared in the *New York Times* and other newspapers, the sentences and electrocutions, to all intents and purposes, were tried and executed for treason. Here again this "treason" pattern was spread over the case.

"TO PREVENT TREASON"

"Judge Kaufman . . . apparently hopes to make the Rosenbergs be traitors. . . . This punishment, the severest for treason by a civil court in America, may at last be meted out to them."

"... As the result of a treason trial in the United States and Julius Rosenberg have been sentenced to death."

*From an analysis of the Sobell case by Denis Nowell of the English Bar, a King's Counsel since 1927, a barrister and chairman of the Hoard League for Penal Reform, *Guardian*, March 22 and 29, 1954.)

"WHAT PRICE TREASON?"

"With death only days away . . . for startling facts about the Rosenbergs . . . see 'Price of Treason,' an absorbing and timely news series starting in the Sunday *Sun-Times*."

"[GALLUP] POLL MAJORITY FAVORS DEATH FOR TRAITORS

"... The issue of the death penalty for treasonable offenses has stirred up considerable interest throughout the country because of the conviction of Julius and Ethel Rosenberg as wartime spies."*

Nowhere in the signed article by Dr. Gallup is it made clear to the public that the Rosenbergs were not tried for a treasonable offense, but for the lesser charge of conspiracy to commit espionage. A few lone voices, such as the columnist Dorothy Thompson, recognized the danger of this first boulder loosening the avalanche:

"Many Americans believe that the Rosenbergs were convicted of treason, as they were not."†

In an editorial dated Jan. 3, 1953, in the *Gazette and Daily of York, Pa.*, the full significance of what had been done to the Rosenbergs was understood:

"... The accused should have the same protection as is accorded those charged with treason.

"... That is just what is so morally wrong about the Rosenberg case. The Rosenbergs could not have been convicted for treason. That is conceded. So they are charged with conspiring to commit espionage.

"... It is our honor that is at stake in this Rosenberg case . . . when we permit fear and hysteria to induce us to use such bad judgment as to kill persons for something less than treason whom our Constitution prevents us from killing for treason itself."

But the whipping-up of fear and hysteria continued to the eve of the executions:

*Respectively:

from an editorial in the *Christian Science Monitor*, Apr. 7, 1951;

from an editorial in the *Hollywood Citizen News*, Dec. 4, 1952;

from an advertisement in the *Chicago Sun-Times*, June 12, 1953;

Los Angeles Times, Jan. 29, 1953.

†*Los Angeles Daily News*, Jan. 19, 1953.

"CHARGE, TREASON

"I have no way of knowing, as I write this, whether they'll pull the switch on the Rosenbergs on June 18, but in the interests of deterring further experiments in treason, I certainly hope so."*

... And after the executions:

"THE CRISIS PASSES

"The Rosenberg case is done. The penalty for the most dastardly of all crimes — treason — has been exacted."†

Some eight months later, following the "Twenty Years of Treason" speeches of McCarthy, pundit Walter Lippmann tardily began to see that what had been ignored in the Rosenberg case had become "a mortal accusation" against the entire Democratic Party. Aware now of the avalanche of treason charges descending upon anyone in disagreement with official policy, he wrote:

"Is it necessary to spell out why the charge of treason — made deliberately and with knowing untruth by one party against another — is an intolerable political offense?"‡

It is small and bitter consolation that what happened in the United States Courthouse on Foley Square in March of 1951 later boomeranged with such savage irony on those who helped create the atmosphere for the Rosenberg case. It took many years for Mr. Lippmann to realize that there existed "a remarkably clear pattern" in this business of treason-calling and that the Republican Administration had "made a pact with Mephistopheles" in allowing its Attorney General, Brownell, to attack former President Truman by rattling the bones of Harry Dexter White. But if anyone should have been advised to ponder the fate of "Dr. Faustus and his pact," certainly it ought to have been President Truman when he permitted his Attorney General, McGrath, and other officials in the Department of Justice to institute the most foul political frame-up in the history of the United States.

*Column by Robert C. Ruark, *New York World-Telegram*, June 17, 1953.

†Editorial in the *New York World-Telegram*, June 21, 1953.

‡*Los Angeles Times*, Feb. 17, 1954.

ely, for some benefit for any other reason,

is in the main true — being exposed as a liar to insert into that for example, an assertion was present, when he using word or two into which had in fact taken care to a perfectly inno-

danger of prosecution, if out if he could; and fabrication of his story. Noticeable that the few age might well have otherwise true and

had his Brutus, Charles and George the Third (maker) — may profit by

— Patrick Henry

between the Rosenbergs and purposes they few examples of how American scene:

N shock other would interest ever applied for to deter imitators."

United States, Ethel to die."

Pritt, senior member member of Parliament, reform. (See *National*

"The Friend of His Friend"

*"Every Spaniard was called upon by the Edict to become an informer . . . In the name of God and by the bowels of Jesus Christ, they were asked to become accusers and betrayers — the friend of his friend, the brother of his brother, the son of his father."**

ON THE morning of March 8, a Thursday, the prosecution's first witness, Max Elitcher, was called to the stand. On that same morning the New York Times headlined Saypol's opening statement of the day before as though it were actual sworn evidence:

"THEFT OF ATOM BOMB SECRETS IN WAR
STRESSED AT SPY TRIAL"

Concerning Korea, the headlines presaged a possible extension of the war since MacArthur was demanding that "Present Handicaps Be Lifted." Unless permitted to destroy the "sanctuary" of China's industries in Manchuria, he warned, the war might end in a stalemate. Equally ominous was the news on the domestic scene. Out of Washington came this alarm:

"624 GROUPS ARE PUT ON SUBVERSIVE LIST"

"House Group [Un-American Activities] Also Cites 204 Publications. . . . The list runs from the 'Abolish Peonage Committee' . . . to a magazine entitled 'Zajednicar,' which means brotherhood in Croatian."

In the article describing Saypol's opening statement, three long columns were devoted to his "blistering characterizations" of the defendants as "traitorous Americans." Since only three lines of print were given to the statements of all three defense attorneys, one may estimate the degree of objectivity displayed toward the case even before any evidence was heard.

*A description of the Edict of Grace announced by the Spanish Inquisition; Heinrich Graetz, *History of the Jews*, Vol. 4, Chap. 10, The Jewish Pub. Society of America, Philadelphia, 1894.

There was also reference made to the list to be called in behalf of the Government. It was impressive because it included such distinguished names as Albert Oppenheimer, Dr. Harold C. Urey and the three Americans most responsible for the atomic bomb. When the trial ended, however, little if any reference was made about the failure of the prosecution to present important witnesses. In fact, when we turn to the list of the 102 prosecution witnesses originally called, only a few names appeared!*

When the list of 102 Government witnesses was read, the jury the total impact was enormous. Besides the names of scientists, there was a grouping of the FBI for the preparation of the case. The third group comprised of close friends and relatives. With the reading of these names, the verdict was delivered. Not only did this group include the Rosenbergs, but the father and mother of the defendants, and his wife's sister and brother!

Each such name was as a thunderbolt. Would they be party to a fraud? Dr. Urey lie? Would they be party to a fraud? the FBI, the legend of which had "become a part of the Credo, along with George Washington's Creed, modern St. Georges be suspected of giving close friends and relatives — would they lie if the accused were really innocent?

To look ahead a bit, let us see what happened next. As indicated above, out of the 102 announced witnesses, only a few names appeared. And out of the three groups just mentioned, only a few names ever called to the stand.

Let there be no mistake about this; not only did Dr. Urey never called, but he informed this writer that in Courtroom 110 on June 8, 1953 (the day of the "Presentation of Evidence"), that he never even knew he had been called as a witness! In truth, had he been called, their expert testimony under cross-examination would have cast very serious doubts on Greenglass's testimony.

*For list of announced prosecution witnesses see Appendix B. Note: Compare with number of prosecution witnesses actually called. Record Index, pp. II-VI.

†From the editor's column of *Harper's*, March 1953, "The Legend" with reference to its lead article. "The Rosenberg Case" by Alan Barth.

of 102 witnesses to was tremendously men as Dr. J. Robert Leslie Groves, Los Alamos project. ing was mentioned any of these impor- d, we find that out nced, only 23 actu- and been read to the group of illustrious chiefly responsible mpact came from a ives of the accused. is practically sealed intimate friends of obell, his uncle and

General Groves or ? And the agents of ed in the American rec"† — could these testimony? And the ng the prosecution ed to this heralded 79 never appeared. t a single one was

was Dr. Harold C. he corridor outside earing on the "New a announced as one Oppenheimer been nation might have to understand the

l, pp. 51-52. s who actually ap- exposing "The FBI Is an FBI Report?"

scientific data which he claimed to have memorized so perfectly. It is perhaps ironical justice that it was Dr. Urey who later became most prominently involved in the fight to save the lives of the Rosenbergs, after he had studied the record and had found the Government's case for the most part incredible.

Regarding the second group, not one FBI man took the witness stand to support the testimony of the Greenglasses, Elitcher, or anyone else. From a legal point of view, it can be said that their very silence inferentially lends the badge of veracity to the testimony of the defendants.

(Note: It should be apparent why the FBI refrained from taking the stand. They would hardly want to swear under oath what did or did not transpire in the events connected with Greenglass' coercion, Sobell's abduction and Elitcher's belated Statement No. 3.)

Of the third group, not only was no friend or relative ever called to the stand, but no one was even notified that he or she had been announced as a witness in behalf of the prosecution! (This writer has confirmed this fact through Helen Sobell.)

Summing up the damage that was done the defendants by this deceptive list, of which almost 80 per cent were never called, in the first place it succeeded in undermining whatever presumption of innocence still existed. Second, the maneuver was designed to tie the hands of the defense if it should consider calling any scientists in its own behalf. For with the announcement of the scheduled appearance of Dr. Urey and Dr. Oppenheimer, what realistic hope could the defense have to induce other scientists to appear as rebuttal witnesses? And finally, the huge list — or, as one newspaper called it, "the stockpile" — had the effect of unfairly throwing the defense off balance and sending it up many blind alleys of wasteful preparation.*

ii

"A lie, turned topsy-turvy, can be prinked and tinselled out, decked in plumage new and fine, till none knows its lean old carcass."

— Henrik Ibsen

As suggested in the Author's Note, the summary of Elitcher's testimony as it appeared in the *Columbia Law Review* was chosen as a basis for analysis for the following reasons: (1) It is concise, (2) it is

*For example, anticipating the testimony of the fraudulently announced William Perl.

unbiased and reasonably accurate, (3) it is from a highly respected legal periodical, and (4) it is assurance that every important point in the Government's case is fully presented. Here it is in full as it concerns Elitcher's direct examination:

Columbia Law Review Summary re Elitcher

"A number of other prosecution witnesses testified concerning the activities of the Rosenbergs.

"[Max Elitcher] reported that in June, 1944, and September, 1945, Julius Rosenberg had solicited his services for espionage activities. Later in 1945, Rosenberg asked Elitcher to continue his employment in the Navy Department because of its fertility as a field for espionage. Elitcher also testified that in July of 1945 [sic!] he had communicated his suspicion to Morton Sobell that he, Elitcher, was being followed. That night, according to Elitcher, Sobell went on what he said was a visit to Julius Rosenberg in order to deliver a 35-millimeter film can purportedly containing secret information (the inference being that Sobell feared apprehension and confiscation of the can because of Elitcher's suspicion of being followed). Elitcher, although he accompanied Sobell, did not see Rosenberg."

"Direct evidence against Morton Sobell, the other defendant in the case, *derived solely from the testimony of Max Elitcher*, who related that Sobell had asked him to enter the Young Communist League in 1939 and later had joined with Rosenberg in trying to get Elitcher to engage in espionage. In June, 1944, Rosenberg, seeking to convince Elitcher of the need and propriety of espionage activities, told him that Sobell was engaged in such activities. And, as previously mentioned, Sobell had transmitted important information to Rosenberg after Elitcher had reported his suspicions of being followed."* (Emphasis added.)

With all respect to the editorial staff of the *Columbia Law Review*, the date marked "[sic!]" should be 1948 and not 1945. More regrettable is the implied inclusion of Ethel in the phrase "the activities of the Rosenbergs." The record is clear that Elitcher never mentioned her as involved in the conspiracy. The *only* charges against her come from the testimony of the Greenglasses.

For convenience in analyzing Elitcher's testimony, the foregoing summary may be divided under these headings:

*"The Rosenberg Case," *op. cit.*, pp. 221 and 223. See also Elitcher's direct examination in Record, pp. 197-263.

Describing this information, Elitcher continued as follows:

Illustrated also is how Kaufman permits conspiracy" to be felt by Sobell. Though Sobell is "authorized" Rosenberg to mention his name, Kaufman is persuaded to believe in the "existence of the o

*Note: In quoting trial testimony, omitted portions are indicated by three dots. There is extra spacing between excerpts.

blueprints or anything else is needed. . . . I agree to do so, should I be returned. He said, however, that it would be immediately and could so it could be returned and the security of these things to me that the operation

tioned:

convincing me of the per-
he told me that Sobell,
also —

minute. I object to any
of Sobell.

lit now; in a conspiracy
spiry exists, conversa-
e other conspirator even
ction is overruled. It is
xists.*

[Rosenberg] then men-
ay?

so strongly condemned
Although no conspiracy
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nsspiracy."

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ns will be designated by

Classical too is Kaufman's overruling statement; he permits the conversation to be taken subject to *later* proof that such a conspiracy between Rosenberg and Sobell actually existed. Although Elitcher's subsequent testimony furnishes no such proof, nevertheless the damage has been done.

In Chapter 10, in our discussion of the Bill of Particulars, we showed that if Sobell's entry into the conspiracy was June 15, 1944 — then it was impossible for Rosenberg to have told Elitcher on June 6 that Sobell was *already* actively engaged in the spy ring. And yet this, according to Elitcher's testimony, was the principal reason he responded to the spy proposal. If it be contended that Julius lied and used Sobell's name only as a "come-on," this argument is untenable, because (1) Elitcher would certainly have exposed such a lie in his testimony, and (2) Rosenberg could not realistically expect Elitcher to remain in the conspiracy once such a lie had been bared by Sobell.

What, then, are we to make of the unexplained conflict in these two important dates? Only one thing: that Saypol, for reasons that will be seen, was determined that Julius' spy proposal be on D-Day, June 6, 1944; that during the month of January, when Saypol was personally involved in the prosecution of Remington, he had not yet rehearsed this particular portion of the testimony with Elitcher; that his chief assistant, Myles Lane, who was assigned to contest the Bill of Particulars — not knowing Saypol's precise intentions — arbitrarily put down June 15; that when this conflict became apparent with the return of the final indictment it was considered too dangerous to correct it for the reason that it would invite suspicion.

In short, what we see amply illustrated is the blundering which is inevitable when there are so many participants, each of whom is prudently looking out for himself.

When we turn to Elitcher's cross-examination regarding Julius' June, 1944, visit, we see that Mr. Bloch elicited the admission that not only had he and Rosenberg been casual acquaintances at college, but that in the *six years* following their graduation they had never seen each other, never corresponded and never telephoned one another. (Note: Except for one brief accidental meeting at the Wardman Hotel swimming pool in July, 1940, or four years before the visit of June 6.) In brief, that they had no relations of any kind whatsoever.*

During cross-examination Mr. Bloch divided Julius' visit into two parts: (1) while Helene Elitcher was present, and (2) while she was

*For cross-examination of Elitcher, see Record, pp. 264-394. For cross-examination of Elitcher concerning Julius' alleged spy proposal, see Record, pp. 297-303.

waiting in the bedroom. During the first part, Elitcher testified that there was only small talk for fifteen to thirty minutes, after which Helene was asked to "step out":

Q. [Bloch]: And then Rosenberg, who had never been to your house before, you say, asked your wife to leave the room; is that right, at that point?

A. [Elitcher]: Well, he said to me, "I would like to see you alone," and either I or he or both of us just turned to my wife and said, "Would you step out? We would like to talk alone," and she went into the bedroom and stayed there while we talked.

Here we are offered the possibility that Julius, who had just met Elitcher's wife a half hour before, would himself undertake to tell her to step out without so much as an apology! But now Mr. Bloch questions Elitcher about the second part:

Q. And then you say Rosenberg, not having seen you for six years, hardly knowing you, launched into an overture to you to engage in getting information?

A. Yes.

Q. Didn't you testify before that you were shocked at this overture?

A. Well, yes. It was new. Something which — well, I think it would shock anyone, from the approach . . .

Q. How long would you estimate the conversation that you had with Rosenberg at your house that night lasted, while you two were alone?

A. *I would say no more than a half hour, probably less. It was relatively short.*

Q. Now, after your wife left did Rosenberg come right to the point and talk to you about possible espionage work . . . ?

A. Well, he started out with this discussion of the Russian war effort. . . . He sort of built up to it talking about that . . .

Q. How long would you say that part of the conversation lasted?

A. *A few minutes; say three or four; less than five minutes. (Emphasis added.)*

First, we are asked to believe the incredible statement that a mere acquaintance, whom Elitcher had known only casually six years before, had succeeded in recruiting him as a Soviet spy in the total time of forty-five to sixty minutes! Breaking this down to the actual time of the spy proposal, we are asked to believe that Rosenberg

spent no more than three to five minutes in warming up Elitcher, and then concluded the conquest within the next twenty-five minutes!

Second, we are asked to believe that Rosenberg (the spy-master) was not only completely indifferent to Elitcher's shocked reaction, but that he divulged the exact procedure the spy ring used to transmit its secrets. Third, we are asked to believe that Elitcher, despite his admitted knowledge of a possible death sentence, managed to dissipate his shock in these twenty-five minutes and agreed to Rosenberg's proposal!

And finally, we are asked to ignore completely the possible suspicions of Elitcher's wife as well as Rosenberg's total indifference to such suspicions. And yet the so-called veteran spy-master shows no concern whatsoever while Helene Elitcher waits alone in the adjoining bedroom. That she might be overcome by curiosity and attempt to eavesdrop evidently never enters his mind, nor for that matter Elitcher's. Neither is there any mention of her showing normal inquisitiveness or even the slightest interest following this mysterious visit!

In his acceptance of the spy proposal, it is Elitcher's testimony that he was most anxious about the delivery of the material to New York, and that he warned Julius, "I can't make any trips to New York on my own without my wife's knowledge." If, then, we are further asked to believe that Julius was sufficiently cautious as to have Mrs. Elitcher wait in the bedroom during the proposal, then consistency demands that he would ask at his next meeting with Elitcher the natural question: "How about your wife — was she at all suspicious? Did she want to know what we talked about?" But the record reveals no such conversation or anything resembling it.

Pursuing this irrationality further, if Julius was so distrustful of Elitcher's wife, why did he not arrange a private meeting in the first place? Why didn't he simply suggest on the phone to meet for lunch the next day, or to meet him at a bar that evening? If we are to believe Greenglass' subsequent testimony that Julius was accustomed to spending large sums of money on recruits in expensive restaurants and night clubs, why this curious exception with Elitcher? In short, why would a seasoned spy-master take so unnecessary a risk as to make his spy proposal within possible earshot of an unknown, and therefore a potentially dangerous, person?

According to Elitcher's testimony, until that fateful June night Julius had been "merely a vague person" to him. In the face of this, is it credible that: (1) Rosenberg, the "super-spy," would behave so irrationally and so recklessly, (2) that Helene Elitcher would have

remained totally indifferent to what was going on, (3) that a man as timid and cautious as Elitcher would have plunged so unhesitatingly into a conspiracy?

And so once again we see in the anatomy of this case a pattern of superimposing untruths on top of the truth. The truth which had in fact taken place in that year 1944, as Pritt points out, while Elitcher started working on the spy ring, he inserted enough falsities to make a conspiracy. And by having Julius merely mention the matter, the latter also became criminally involved.

For the true details of this visit, let us turn to Julius Rosenberg's testimony and see what actually took place.

Early in the summer of 1944 Julius Rosenberg was ordered by the Signal Corps to go to Washington and do some work on the Standards. The following is from his direct testimony:

Q. [Bloch]: About how long did you stay in Washington to complete your assignment?

A. [Julius]: Well, I don't remember the exact date, but I know it was about three to five days.

Q. Can you remember specifically when you went to Washington?

A. I can't remember specifically, but I know that the records will show when I was assigned to go to Washington. I venture a guess. It was 1944, somewhere between the summer and autumn about that time.

Q. ... Did you call Mr. Elitcher on the phone when you were down in Washington?

A. Yes; I was there alone and I was looking for his name in the telephone book for Mr. Elitcher. I called him one evening.*

Here is an elaboration of this point as given by Julius later:

Q. [Saypol]: Well, what was it you called him about?

A. [Julius]: I was lonesome and I just wanted to talk to him.

Q. But you didn't know him very well, did you?

A. Well, he went to the same school as I did. I knew a couple of people's names who were in the same class as he was.

*For Julius' direct testimony concerning the visit to Washington, see Record, pp. 1149-1152.

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remembered the incident at the swimming pool at that time,
that Elitcher was in Washington, and perhaps he had a telephone.

Q. Was Sobell in Washington at the time?

A. I looked up his name; I couldn't find it in the book.

[Note: In June, 1944, Sobell was living in Schenectady, New
York, employed by General Electric.]

Q. How many days had you been in Washington when you
decided you were lonesome and you wanted to look up some-
body?

A. I believe it was about the second or third day of my stay
there.

Q. Well, had you met any people in the Bureau of Standards
with whom you were working?

A. No.*

And so we observe that Julius did not undertake a special trip to
Washington to make a spy proposal to Elitcher, but that there was
an official assignment. This fact Saypol did not dispute, since it could
be verified easily by Government travel records. Yet Elitcher's testi-
mony carefully omits this important point even though it would
have been the most normal thing for him to have asked, "What are
you doing in Washington?" On the contrary, his testimony makes it
appear that Julius had come to Washington expressly to recruit him.

More important, however, is the reasonableness of Julius' lone-
liness after being in Washington two or three days. How many of
us, finding ourselves alone in a large city, have done the same thing?
After failing to find his old friend Sobell in the phone book, he next
thought of Elitcher since he knew the two had been roommates,
and, when last in Washington, he had run into both of them at the
swimming pool. Knowing no one else to call, he simply looked up
Elitcher and was glad to find him at home.

Thus, despite Saypol's labored sarcasm ("When you *decided* you
were lonesome"), we see a basically normal impulse far removed from
the air of intrigue given it by Elitcher in his studied opening state-
ment that he "received a phone call from a person who said he was
Julius Rosenberg."

Returning to Julius' direct examination:

Q. [Bloch]: Now, did you have anything to eat at the Elitcher
house, if you remember?

A. [Julius]: Well, all I could recollect is that I either had some
coffee and some pie, or some coffee and some dessert.

*For Julius' cross-examination concerning the alleged spy proposal, see
Record, pp. 1166-1172.

Let us now compare this with Elitcher's testimony in cross-exami-
nation:

Q. [Bloch]: You don't remember what you ate that night?

A. [Elitcher]: Absolutely not.

Q. Did you have coffee?

A. I am sure, yes.

Q. Did Rosenberg have coffee with you?

A. No. We had a drink later, but we had no coffee.

A moment later, Elitcher is asked when his wife was requested to
go into the bedroom:

[Elitcher]: Well, we talked perhaps 15 minutes, a half hour.
We just discussed our work, marriage, children, just odd topics.

[Note: Here, despite mentioning their "work," Elitcher makes
no reference to Julius' presence in Washington on assignment.]

[Elitcher, cont'd]: We also — there was mention made at that
time of the fact that D-Day had just come a short time before and
Rosenberg mentioned that he had had a drink with some friends
in celebration of this and also . . .

Q. [Bloch]: Pardon me, I don't like to interrupt, but did you
tell us that on your direct examination?

A. I wasn't asked.

Q. Weren't you asked what the conversation that you had with
Rosenberg was when he came to your house?

A. Yes. I said we talked.

Q. Now you are adding something, are you not?

A. Yes.

Mr. Saypol: May we hear the balance of the answer regarding
the drink with the friends celebrating . . .

The Witness: We had this drink and we also had a drink, I
believe it was wine, *we will say*, in celebration of the event of
D-Day. (Emphasis added.)

Apparently, under direct examination, Elitcher was either too
nervous to remember the point about the drink, or Saypol forgot to
remind him about it. But now that he has "recalled" it, we see
Saypol crudely rescuing him with an interruption not to forget the
wine! Presently, we will see the reason for this reminder in Saypol's
cross-examination of Julius concerning his "treasonable" happiness
in drinking to D-Day, the opening of the Second Front.

But what is more significant here is how the over-rehearsed Elitcher
has his mind so fixed on testimony that will be damaging that he

gives himself away on trivialities regarding ordinary, normal behavior. It would have been the most natural and simple bit of hospitality for the Elitchers to have offered their guest a cup of coffee and a piece of pie left over from their dinner. But no, Elitcher is *so certain* that this did not occur even though he is "absolutely" unable to remember what he ate that night. And so, in reconstructing the scene, we are asked to believe that not even the "drink" was offered to Julius until the latter had mentioned having had one previously with some friends. It is difficult to believe in such a lack of common courtesy, but when we couple it with the claim that Elitcher was seduced only thirty minutes after Julius' arrival, it is even more difficult. In short, there is no consistency in Elitcher's own description of his conduct that night.

Concerning the "friends" with whom Julius was supposed to have celebrated earlier that evening, it is exceedingly strange that there is no further mention of them in Elitcher's testimony. Would he not have asked normally, "Anybody I happen to know?" Surely, if the two were drawn together because of a common political ideology, and if Julius — an alleged comrade — had been drinking with friends to celebrate the Second Front, would not Elitcher be inclined to ask if they were also friends of Sobell, or even comrades in his own party branch?

Furthermore, why didn't Saypol produce or name any of these friends during the trial? The names of just about every friend Julius ever had were brought in, but none of these had ever resided in Washington. Certainly the FBI, which questioned former classmates and friends of Rosenberg as far away as Cleveland and San Francisco,* could have had its Washington bureau track down Julius' alleged friends in that city if they had really existed.

And now to conclude with Julius' version of the balance of his visit:

Q. [Bloch]: Now, did you sit around with Mr. Elitcher and his wife and talk after you had your coffee and dessert?

A. [Julius]: Yes, we did.

Q. I want you to tell the Court and Jury, as best you can — nobody expects you to give the exact words — the substance of what you talked about that night?

A. Well, I told him I was in Washington on my job; I told him I was working with the Signal Corps; I told him the rating I held.

*In Cleveland, William Perl; in San Francisco, the Steingarts, old friends of the Rosenbergs who had moved there from New York. (See prosecution list of witnesses, Record, pp. 51-52.)

He told me he was working for the G his rating that he held; and we discussed child —

[Note: Julius is referring to his son, M old at that time.]

[Julius cont'd]: — and we discussed the ton, it is hot in the summer time, cold in we discussed the war.

Q. Did you during the course of that e Elitcher in specific words or by implication to engage in espionage work, or, let me p you wanted him to get certain information by reason of this access to certain informat

A. I never said anything of the sort.

Q. Did you discuss politics?

A. Yes, I did.

Q. Did you discuss the Soviet Union?

A. Yes, I did.

Q. Did you discuss the war?

A. Yes, I did.

Q. Tell us what you said to Elitcher and

A. Well, we discussed the progress of the German Army was taking a beating at that rific amount of power [was] being built up the finishing touches to the war; and we di the Russians had been carrying a very heavy

Q. Have you recounted now substantially said on that first visit down at Elitcher's apa ton?

A. Substantially, what I could remember.

To collate it all, here is the pertaining porti examination:

Q. [Saypol]: What time did you get there?

A. [Julius]: Sometime during the — their su

Q. How long did you stay there?

A. I would say about an hour. I am not i length of time but I would say approximately

Q. Was he glad to see you?

A. He was cordial.

Q. Were you glad to see him?

A. Yes, I was.

Q. Now tell us, what did you talk about? . . .

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A. He said to me, "What are you doing in Washington?" I told him, "I am here on an assignment," and I told him I was at the Bureau of Standards in ref — in regard to some work.

[Note: This is the point Elitcher so suspiciously omits.]

Q. Was there a time when either at your request or at his request Mrs. Elitcher left your presence and left you alone?

A. There was no time that I requested it or he requested his wife to leave the room, but there was a time when she went in to do the dishes, from the living room to the kitchen.

Q. Now then, what did you talk about?

A. Talked about my job, where I was working at, the fact that he was working for the Government, what his rating was, what my rating was. We talked about Washington, D. C.; we talked about my family, and I asked him about his health and then we talked about the topics of the day.

Q. Well, what were the topics of the day?

A. The war.

Q. And what did you talk about in connection with the war?

A. What the latest news was about the war.

And so we have in Julius' account, unshaken under cross-examination, this reasonable and straightforward description of that prosaic visit. Both versions are *almost* the same. It lasted an hour, but Elitcher divides it into two parts, making the second part conspiratorial and inserting into the first part the three damaging points, namely: the drink of wine to D-Day, the request to his wife to leave the room and Julius' celebration with his friends.

In Elitcher's version the prosaic coffee and pie are transformed into a toast of wine preliminary to the spy proposal. In Julius' account, he dropped up simply to seek the company of the only person he happened to know in Washington after two or three lonely days there.

In Elitcher's version, this is negated by the insertion of Julius' "friends," who are never named or otherwise identified. In Julius' account the only time Helene Elitcher left them was when she went from the living room into the adjoining kitchen to do the dishes. But in Elitcher's version this housewifely act is transformed almost into a command that she mark time in the bedroom.

It will be noted that Julius admits quite straightforwardly that which Saypol later builds up into "motive" for espionage, *i.e.*, pro-Soviet sympathy during the war. Certainly if Julius Rosenberg, on trial for his life, had any consciousness of guilt, he could have been more discreet before that hostile jury, so bitterly prejudiced against Russia as it was during the height of the Korean War. He could just

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as well have omitted his voluntary statement that the Russians had made heavy sacrifices in World War II.

Presently we will come to a complete statement of Julius' frankly admitted political opinions, but let us see how Saypol exploited this particular opportunity:

Q. [Saypol]: Now, you were a little bit uncertain about the date in 1944 . . . can't you fix the date [of the visit] in a more positive way?

A. [Julius]: I cannot, sir.

Q. Well, if I tell you that it [D-Day] was June 4th, 1944, would that refresh your recollection?

A. I take your word for it that it was June 4th.

Q. Well, it was June 6th, take my word for it, it was June 6th, and would that act as a refresher as to the date when you saw him [Elitcher]?

A. No, it would not.

Since Julius had been in Washington from three to five days, he can scarcely be blamed for his uncertainty seven years later as to whether it was the second or third day he telephoned Elitcher. The visit might very well have been on June 4, as Saypol's slip seems to suggest. *In this event, D-Day would have been in the unknown future and the following would have been impossible:*

Q. [Saypol]: Do you remember hearing him [Elitcher] testify that when you saw him on that date in 1944 you had a toast to D-Day?

A. I heard him testify.

Q. D-Day was the date, really, of the second front, was it not?

A. I believe so.

Q. And you and he were quite elated about that, were you not?

A. I don't recall being elated about that, at that time.

Q. Well, did you have a drink that night, as he described?

A. I don't recall having a drink at his house, except for a cup of coffee.

Q. Do you recall having talked about the invasion as a distinct aid to Russia?

A. I don't recall having talked about that.

And now let us turn to Elitcher's cross-examination, plainly showing the visit to be many months earlier than D-Day!

Q. [Bloch]: You told the FBI agent at that July, 1950 interview that Rosenberg came to visit you for the first time and tried

to interest you in espionage *a few months after you moved into your apartment*, which was September, 1943?

A. That is correct. (Emphasis added.)

Later, Elitcher claimed he refreshed his memory and that the date of the visit was moved up into 1944 in this vague manner:

Q. [Bloch]: At any rate, you didn't mention the year 1944 at all [to the FBI], did you?

A. Oh, I said it was either late 1943 or 1944.

Q. Early 1944?

A. Early, possibly. It was the apartment I recalled.

Q. Well, late 1944 is not June 1944, is it?

A. No.

Late 1943 — late 1944 — or early 1944! Thus, according to Elitcher's alleged statement to the FBI, the spy proposal visit could have been any one of 365 days. But here is more vagueness:

Q. [Bloch]: Did you tell the FBI [in July, 1950] about the June 1944 incident?

A. [Elitcher]: Yes.

Q. But you did not tell them it occurred in June, 1944; is that not correct?

A. That is correct. I was not clear.

Q. In fact, you told them your recollection is that it occurred in the latter part of 1943 or the early part of 1944, is that correct?

A. That is correct. (Emphasis added.)

Here we have Elitcher's flat contradiction of his own testimony that Julius did in fact drink a toast of wine to D-Day on June 6, 1944. And yet we have just seen Saypol pinpoint the visit *precisely* to D-Day, in order to get in Julius' elation about the Second Front. How did Saypol dare to do this after Elitcher's admitted hop-skip-and-jump guesses under cross-examination?

First, he was relying on the fact that fourteen days had elapsed between Elitcher's testimony and Julius' and that the jury had forgotten these guesses and remembered only the intriguing scene of the toast followed by the spy proposal. Second, with all the intervening testimony from the Greenglasses, Gold, Bentley and some eighteen other prosecution witnesses, Saypol was certain that the jury had accepted every bit of it at face value, and it is therefore that we now see him relying completely on the jury's inability to remember Elitcher's uncertainty of the date:

Q. [Saypol]: Were you pleased about the fact of the invasion?

A. [Julius]: I just said I don't recall about talking about the invasion.

Q. I say, were you pleased? Were you happy about it?

A. When the second front was open?

Q. Right.

A. Yes, I was happy when the second front was open.

Q. You don't remember talking to him about it that night?

A. No, I don't remember.

In this manner, instead of Elitcher's recollection, it is Julius' which is made to sound suspect. As for the injection of the Second Front issue, it is clear that this device was used to lend credibility to the spy proposal, just as the "Hitler-Stalin pact" was injected to support the Whittaker Chambers line that American Communists were ready to commit espionage for the mutual advantage of the "Communist-Nazis."

Notice especially the inquisitorial method of getting Julius to condemn himself by his unrepentant political admissions: Was he pleased that the D-Day invasion of Hitler's "Festung Europa" had taken place? Was he happy about the opening of the Second Front?

Yes, he was happy about it.

Heresy and mortal sin!

What tens of millions of Americans had cheered on June 6, 1944, was now in March, 1951, "motive" to betray one's country! Certainly Julius was happy about the opening of the Second Front. So was Wendell Willkie when he stated in a speech as early as 1942 that:

"We can best help Russia by establishing a real second front in Europe with Great Britain at the earliest possible moment our military leaders will approve, and perhaps some of them need some public prodding. Next summer might be too late."

There were, of course, those who were as unhappy about the Second Front in 1944 as they were in the years following Hitler's defeat. By 1951 they had become quite outspoken, but even by 1949 — only five years after the Nazi massacre of American prisoners at Malmédy — Senator McCarthy was interceding openly in behalf of the SS troops responsible for the atrocity.

By 1951 our foreign policy had completely reversed itself. Is there any wonder, then, that the Rosenberg jury, many of them possibly reflecting this reversal, found Elitcher's testimony entirely acceptable? For how is it otherwise conceivable that twelve jurors would swallow so incredible a story — an uncorroborated story — in which a timid

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 ving the proposal of June 6, 1944, Elitcher told of two sub-meetings in New York: (1) That same summer when he had Julius and a few other former classmates for dinner, and following summer, in August, 1945, when he had been on a date with his wife and they had stayed overnight at the Rosenberg apartment. But curiously enough, although this period constituted the final year of the war, when one would suppose that a Soviet spy would have been most anxious to obtain military secrets, there is no such request from Julius.*

In other words, we are asked to believe in the paradox of a conspiracy during which nothing happened that was at all conspiratorial! But, according to Elitcher, Rosenberg made no attempt during the passage of time to get in touch with him, and when Elitcher received these purely social calls they were entirely at his own volition. To think of human actions in terms of cause and effect, the D-Day landing remains completely isolated from reality, since Julius makes the slightest effort to follow up the alleged spy proposal. Thus, it becomes more than ever apparent that it was fabricated solely for dramatic effect: the tie-up with the Second Front, the toast of the celebration with friends; in short, to provide the proper atmosphere for the jury to believe in Elitcher's incredibly swift selection.

THE ALLEGED ESPIONAGE REQUEST OF SEPTEMBER, 1945†

According to Elitcher's testimony, the second time Rosenberg showed any interest in him as a spy was *one year and three months* after the initial request. He claimed that Julius had again visited Washington, one Saturday morning in September, 1945, re-some "fifteen or twenty minutes" and said:

[Elitcher]: . . . that even though the war was over there was a continuing need for new military information for Russia and I was trying to get my views about it, whether I would want to contribute in the future.

* Elitcher's direct examination re these two visits, see Record, pp. 238, 243. For Elitcher's cross-examination re these two visits, see Record, pp. 305-308.

† Elitcher's direct examination, see Record, pp. 243-244. For Elitcher's cross-examination, see Record, pp. 309-315.

... I said I would see and if I had anything and I wanted to give it to him, I would let him know.

... He was asking whether — what I was doing. This was quite some time later after the past visit [of June, 1944], and he was inquiring about it.

Q. [Saypol]: What did you tell him what you were working on at the time? What did you tell him?

A. Well, I told him that I was working on some sonar or anti-submarine fire control devices.

This is Elitcher's *total* direct testimony on the subject. Again, it is designed to create the impression that Julius made a *special trip* to Washington for the visit. However, the facts, as later admitted by Elitcher, were entirely contrary to such an impression.

According to Julius' direct testimony, his second visit to Elitcher was made on a Saturday morning in 1945, but it was in April and not in September.* He had gone there to see his Congressman, Samuel Dickstein, for help on his appeal to the Signal Corps for reinstatement. While waiting for an appointment, he had dropped in on Elitcher for a brief social call. He had not seen him since the previous summer. In the meantime, he had been discharged by G2 on FBI charges of Communist Party membership; in fact, this had happened only the month before. (Note: To support the April date, the defense submitted Julius' file of correspondence with Army Intelligence, whereas Elitcher's claim of a September date remained unsupported.)

Arriving at the Elitchers', Julius had found them about to drive over to the Federal Workers Union where Helene Elitcher was employed, and where she was to be photographed with a committee of union officials. Since Julius was also in Washington to get help from one of these officials, named Mr. Stein, he accompanied them to the union hall. Not finding Mr. Stein, he went about his business after Elitcher directed him to the proper trolley car.

All of this prosaic, innocuous detail is carefully omitted in Elitcher's direct testimony. But in his cross-examination not only is almost all of Julius' testimony on this point confirmed, but the improbability of any espionage discussion is clearly demonstrated by Elitcher's admissions, namely: that his wife was very much present during the fifteen minutes at the house, during the ten-minute auto ride, and during the five minutes the three stood outside the union hall before Julius boarded the trolley car.

*For Julius' direct testimony about the 1945 Washington visit, see Record, pp. 1152-1157. Note: Julius was not cross-examined about the 1945 Washington visit.

In short, in Elitcher's cross-examination picture from the one described in his answer with our theory of frame-up, the only the half-truths were related.

It is entirely plausible that Julius was working on after he had not seen him in a conversation between engineers was commonplace. For Elitcher to have told him he was working on anti-submarine devices. If we believe Elitcher's placing of Julius had stayed overnight at Julius' flat on the day of the visit, then it is hardly likely they would not be together leisurely in New York rather than in Washington. Thus the logic of Julius' statement is confirmed.

The following is perhaps a minor detail since it illustrates the unreliability of Elitcher. In cross-examination, he is asked ver-

Q. [Bloch]: Did you *ever* drive a trolley car in Washington?

A. [Elitcher]: I did not. (Emphatic) And only a dozen or so pages later

[Elitcher]: ... And I drove his car to the hall ... We didn't discuss anything about the car, we were just travelling ...*

To summarize this episode, Julius, the alleged spy-master, waited a year and a half before asking Elitcher, never *once* asking him for the information requested despite their two meetings in Washington. Elitcher, despite Julius' special trip to Washington in November, 1945, there is still no request or offer to deliver the secret information, but it is placed in the indefinite future.

Furthermore, in examining the fifteen-minute drive, and the five minutes it took to get to the house, it is strange that on a Saturday, when they were together at their leisure, every word appears to have been in hurried whispers of their mouths while Elitcher's wife

*Compare Record, p. 299, with pp. 311.

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3. THE ALLEGED ESPIONAGE REQUEST REGARDING THE NAVY IN 1948

Throughout Elitcher's testimony describing his conspiratorial conversations with Rosenberg and Sobell over a period of four years there is a vague and amorphous quality. Except for the Catherine Slip episode, which we will presently discuss, there is never anything that points to an actual act of espionage. And, as we will soon see by Elitcher's own admissions, no such act ever took place, whether between him and Rosenberg or between him and Sobell. Here, for example, is how he describes a conspiratorial conversation with Sobell in 1946:

[Elitcher]: Well, he said, I don't know in what words, or im-
plied that it had to do with *this espionage business*, but I don't
recall the exact nature of the words. (Emphasis added.)

Here is another in 1947:

[Elitcher]: Well, at about that time my wife and I were having
some personal difficulties and I told it to him. . . . He said that —
or, he became concerned and asked whether she knew anything
about *this espionage business*. (Emphasis added.)

And here is how he describes the meeting with Julius in June,
1948,* which corresponds with the above "alleged espionage request
regarding the Navy":

[Elitcher]: I told him I had decided to leave Washington. He
said . . . he needed somebody to work at the Navy Department
for *this espionage purpose* and he wanted me to change my mind.
. . . I told him I would not. . . . Sobell was along and I recall that he
agreed with Rosenberg. . . . However, I convinced him that I was
not going to change my plans. . . . Sobell left and Rosenberg and
I had dinner together.

Q. [Saypol]: What was the conversation in the course of that
dinner?

A. Well, among other things, we continued to talk about *this
espionage*, not relating to my leaving or not leaving. He spoke
of — well, he asked whether I knew of places where important
military work was done. I mentioned the Bell Telephone Labo-
ratories to him . . . in Whippany, New Jersey. He was interested
in my getting a position there and I said, "We'll see, maybe I
can — I don't know." (Emphasis added.)

*Record, pp. 256-258.

First, let it be clear that it is exactly four years since Elitcher's
alleged recruitment, but thus far not one secret, not one illegal docu-
ment has he claimed to have delivered to anyone!

Second, notice the repetition of the phrases "this espionage busi-
ness . . . this espionage purpose." Can we believe so strange a choice
of phraseology was spoken by a spy-master as "I need someone to
work at the Navy Department for this espionage purpose"? Or that
Sobell would have said, "Does your wife know anything about this
espionage business?"

Is this the way spies talk to each other? This would be as ridiculous
as two bank employees discussing a contemplated theft with one say-
ing to the other: "I need someone in the safe deposit department for
this embezzlement purpose." Or two hold-up men with one asking,
"Does your wife know anything about this grand larceny business?"

To summarize this June, 1948, episode, we see again that Elitcher's
testimony consisted of little more than innuendoes and nuances of
guilt. In fact, Elitcher may very well have discussed with Julius the
possibility of finding a better job; and their conversation, entirely
innocuous, may have included such firms as the Bell Telephone Com-
pany. We know from Elitcher's other testimony that just at this time
he was preparing to leave the Navy, that he was looking for work
and eventually found it at Reeves. Hence, all he was doing on the
witness stand was to start with these full truths and insert just a bit
here and there concerning "this espionage business."

4. THE ALLEGED CATHERINE SLIP EPISODE OF JULY, 1948*

In Chapter 8 we have already related the first part of this episode:
how Elitcher drove up from Washington to spend a two-week vaca-
tion with the Sobells; how he "noticed" that he was being followed
by the FBI; and how, when he mentioned his fear to Sobell, the lat-
ter had found it unworthy of belief.

In this section we will examine his conduct from the viewpoint
that he and Sobell were indeed co-conspirators and ask: Why should
a spy knowingly lead his pursuers to the home of his co-conspirator?
And since Elitcher had testified that he had stopped off briefly at his
mother's house en route, why didn't he simply remain there? We
know there was no emergency requiring his presence at Sobell's that
day. Back in the summer of 1945, when he had driven up to New
York on vacation with his wife and they had stayed overnight at the
Rosenbergs, Elitcher's testimony includes the statement: "We first

*For Elitcher's direct on the Catherine Slip episode, see Record, pp. 259-262.

stayed at my mother's house." Later, he adds that his wife "was dissatisfied," and that this was the reason why they had stayed at Julius' apartment the next night.

Thus we have the admission that there was room at his mother's house. And even if his wife was dissatisfied with her mother-in-law's accommodations in July, 1948, certainly Elitcher could well have afforded to go to a hotel for the night and proceed to the Sobells the next day when the coast was clear. But let us continue with his direct testimony as he describes Sobell's reactions after his arrival:

[Elitcher]: . . . When I got there . . . and we put the child to bed, I called Sobell aside and told him that I thought I had been followed by one or two cars from Washington to New York. At this point, he became very angry and said I should not have come to the house under those circumstances. I told him that those were my plans. I had intended — I had planned to come to his house to stay; the fact that I was being followed couldn't change it; whoever was following me would probably know about it; in any case it was our only destination.

Here is precisely what Justice Jackson must have meant by a "hodge-podge of acts and statements." Why couldn't Elitcher change his plans? Suppose his car had developed motor trouble, or suppose he had found his mother seriously ill? Would he have hailed those trailing him and apologized: "I know that you know I am leading you to Sobell, but you'll have to forgive me today — come back tomorrow"?

And exactly how would the FBI *know* his plans to spend his vacation with Sobell? Did Elitcher believe they had tapped his telephone? If so, why did he use his own telephone? But to continue with the testimony:

[Elitcher]: He was still angry and concerned. However, he didn't seem to believe that I had been followed. He told me I should leave the house, I should go to a place in the mountains perhaps, or some other place and stay.

When was sweet Reason ever stood so hard upon her head! In one and the same breath we are told that Sobell was agitated to the point of anger even though he was apparently skeptical of Elitcher's fears. And then, despite this skepticism, we must believe that he asked Elitcher to hide in the mountains (presumably at a summer resort) *after the damage had been done*.

But why does Elitcher introduce this congestion of contradictions? Quite obviously because he has been instructed to provide an atmos-

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phere of guilt — to paint a picture of alarm and terror now the FBI is breathing down their necks. Yet, at the same time he remember to retain the point of Sobell's skepticism in order to prepare for the cloak-and-dagger material soon to follow.

Bearing in mind that Elitcher at this time enjoyed the savings of ten years of uninterrupted earnings and that he was on paid vacation here is his further testimony:

[Elitcher]: During the next interval I told him that it was possible. I didn't know where to go; I just had no — nothing I could see no other thing to do but to stay.

Here we have pathos almost approaching the level of Little Or Annie with Elitcher virtually saying: "How can you throw me with my wife and child to wander penniless, friendless and homeless with a car full of bloodhounds on my trail? Oh, no, Morton Sobell, you made me what I am today and you must give me refuge. . .

[Elitcher cont'd]: He finally agreed that I would stay. . . . However, a short time later he came over to me and said he had valuable information in the house, something that he should have given to Julius Rosenberg some time ago and had not done so; it was too valuable to be destroyed and yet too dangerous to keep around. He said he wanted to deliver it to Rosenberg that night. I told him it was foolish under the circumstances; it was *dangerous*, it was a silly thing to do. (Emphasis added.)

And now we see why Elitcher planted Sobell's skepticism originally. For if the latter were really convinced about the FBI being on his heels, how could he even consider the delivery of the dangerous information that night? And so — there being no danger save in his friend's imaginary fears — rather than destroy the valuable information, Sobell is determined to deliver it to Rosenberg immediately. But here the contradictions begin to pile up:

If Sobell is afraid the information is too dangerous to keep around at the moment, it can only be because he fears Elitcher's story is true: all, and that at any moment the FBI may barge in to catch him off-handed. *But if this be true, why is he not afraid to meet Rosenberg that night with the same detectives hot on his heels?*

Observe also the coincidence of Sobell having this dangerous information around precisely at the time of Elitcher's visit. If the information is so valuable that it may not be destroyed, even with the FBI descending upon them, then why didn't Sobell deliver it to Rosenberg "some time ago"? Is it customary for spies to keep in

possession valuable and dangerous information over an unnecessary period of time? As we will now see, Rosenberg lived only a short drive from Sobell's house:

[Elitcher]: However, he insisted and said he was tired. He asked me to go along. He said he was tired, and that he might not be able to make the trip back. I agreed to go after argument, and we left the house. Upon leaving I saw him take what I identified then as a 35 millimeter film can.*

From Sobell's house in Flushing to the street known as Catherine Slip in lower Manhattan is "ten miles" by car, according to Elitcher's testimony. At night, with the absence of traffic, such a trip could not take more than twenty or thirty minutes. We also learn that it was only 9 or 10 P.M., a fairly early hour for a young man like Sobell to plead such a state of exhaustion. But what is "curiouser and curi-ouser" is his demand that Elitcher must accompany him after the latter has just driven in after an all-day journey of some 300 miles in mid-July!

And so, on this night of nights, despite Elitcher's fear of the FBI possibly waiting outside, and despite the knowledge that his co-conspirator is delivering dangerous information to their common spy-master, he nevertheless agrees to take this great risk. Why? Merely because Sobell anticipates that he might be too tired to drive back!

Truly, as Sobell's attorney pointed out later, the situation added up to nothing less preposterous than Sobell's desire to have Elitcher along as a possible future witness against him.

[Elitcher cont'd]: No reference was made to it [the film can]. He took it. When he got into the car he put it in the glove compartment.

Here, Elitcher would have us believe that it was Sobell's notion to outwit the FBI. Should they suddenly come up to make a search, they would not think to look in the glove compartment!

[Elitcher cont'd]: We drove—he drove over to Manhattan along the East River Drive and he parked outside the Journal-American Building.

*Note: It will be observed that Elitcher, even by his own testimony, never sees the contents of the film can, nor is he even told they are illegal, secret or stolen. Thus, in this most damaging portion of his testimony, he is not even a witness to an overt act of espionage. (See Record, p. 363, wherein Elitcher states he neither saw nor knew what "the material was.")

If Sobell were indeed so exhausted, why didn't he ask Elitcher to do the driving? To retain chronological sequence, here is an explanatory note about their precautions which Elitcher "remembers," but not until he is cross-examined:

"We did check as we went outside, as we drove, that no one was following, and apparently no one was, as we could see no one following as we proceeded from the house to [Catherine Slip]. . . ."

If Elitcher was so easily satisfied with this precaution, one wonders why he didn't take similar precautions during his trip from Washington.

[Elitcher cont'd]: He left the car. He told me to park the car on the street around the corner, which I then noticed was Catherine Slip. He took this can out of the glove compartment and left and I drove up the street and down and parked facing the East River Drive on Catherine Street and waited for him there. He came back approximately a half hour later, or perhaps a little shorter, and as we drove off I turned to him and said, "Well, what does Julie think about this, my being followed?"

Why didn't Elitcher go along with Sobell? Since the latter allegedly said he was delivering the film can to Julius, certainly there was no secret about this point. And since Sobell apparently reported his conversation with Julius to Elitcher, there was no secret about this either. If it be contended that it was Sobell's ulterior design to involve Elitcher deeper in the conspiracy, then he should have been consistent and taken him along to the ultimate rendezvous.

Curious, too, are the lengths to which Elitcher goes to make the locale sound especially mysterious. It so happens that Catherine Slip runs right into Monroe Street at a point within plain sight of Julius' home. It also happens to be a fact that Elitcher had visited Julius' apartment on previous occasions. In cross-examination Elitcher states that Sobell's trip that night ended up in "Rosenberg's house." And yet we see that the story is told as though it were a B-picture scene on a water front with Sobell slinking off to meet Rosenberg in some deserted warehouse.

But now we come to the *raison d'être* of this entire tale—Elitcher's instructions to bring the name of Elizabeth Bentley into the picture, not as a party to the "conspiracy" but merely the mention of her name by Rosenberg as relayed to him by Sobell.

Such a foundation would be sufficient for Saypol to put her on the witness stand and establish by her testimony that she had once heard

of a "Julius" giving illegal information to her lover, Jacob Golos. We will take up this testimony presently, but right now let us see what Elitcher managed to invent after the six-month period which he apparently needed to "recall" her name as well as this entire episode. (Note: Nothing of this Catherine Slip story, according to Elitcher's own testimony, had been told to the FBI on July 21 when they had their "full discussion about Sobell.") For the sake of clarity, let us go back a bit:

[Elitcher]: . . . And as we drove off I turned to him and said, "Well, what does Julie think about this, my being followed?"

He said, "It is all right; don't be concerned about it; it is O.K."

He then said Rosenberg had told him that he once talked to Elizabeth Bentley on the phone but he was pretty sure she didn't know who he was and therefore everything was all right. We proceeded back to the house.

Here Elitcher is interrupted to explain just why Rosenberg happened to be concerned about Bentley at that particular time, July of 1948:

Q. [Saypol]: Just a moment. At that time was the name Elizabeth Bentley under discussion?

A. [Elitcher]: Well, it had been in the newspapers just prior to that time . . . and I knew from the mention of the name to whom he was referring. . . . I knew from the papers that she had admitted to some — to being a part of an espionage ring, that is all. We drove back — he drove back and we discussed the point no further.

Exactly how would Rosenberg, the spy-master, be so sure Bentley was ignorant of his identity? If we are to believe her subsequent testimony, a certain "Julius" had a habit of telephoning her whenever he wished to reach Golos; furthermore Golos had told her that this "Julius" was an engineer residing in Knickerbocker Village. Hence, if this be the truth, Julius Rosenberg had all but given Bentley his visiting card! Why, then, if Julius had just read in the newspapers that she was confessing her role in the espionage network, would he feel so certain that she had not identified him?

In the next chapter we shall see Greenglass' conflicting testimony that Julius had confided to him in May, 1950, that he was planning to flee the country because "probably Bentley knew him"! Thus from one witness (Elitcher) we have Julius' lack of concern about Bentley,

and from another (Greenglass) his virtual panic, with no explanation reconciling these two different versions.*

Reduced to essentials, Julius' alleged reply to Sobell — not concerned about the FBI following Elitcher that day — is actually *non sequitur*. If Julius were indeed the master mind of the spy surely he would know that Bentley's possible recollection of him result only in his own surveillance. It could have no bearing whatever on a separate surveillance of Elitcher as a Navy employee had signed a false loyalty oath.

Let us say that Elitcher had asked Sobell to ask Julius whether not his being followed by the FBI had been stimulated by Ber disclosures. In such a case, Julius' relayed reply might have some, but very little, sense. However, Elitcher's anxious query suggested the name of Bentley; he asked merely: "Well, what Julie think about this, my being followed?"

Therefore the alleged answer he received was no answer at all as illogical and unresponsive as though he had asked "What does Julie think about my baby daughter having the measles so young?" — and as though Sobell had brought back the reply, "Worry, it's O.K. — Julie said his boy Michael fell off a high chair; nothing serious ever happened to him."

When we examine Elitcher's concluding remark concerning his return trip to Flushing we see that somehow Sobell has been miraculously refreshed by his rendezvous with Julius. *Suddenly he no longer tired, and it is Sobell who is doing the driving back in the car of Elitcher!* Let us now turn to the cross-examination on this subject.

Q. [Kuntz]: . . . When you came up from Washington in your car with your family . . . you were scared to death at that time were you not?

A. [Elitcher]: Yes.

Q. You have been scared to death ever since, have you not?

A. Yes.

Q. You were pretty tired from this trip, were you not?

A. I was tired, yes.

Q. And you were worried too, were you not?

A. Yes.

Q. Well, did you tell him, "Mort, I am tired; I took more than a 10 mile trip"? . . . Did you tell him, "Morton, I am tired and worried about this long trip of mine"; did you?

*Compare Record, p. 261 (Elitcher re Bentley) with p. 529 (Greenglass re Bentley).

A. Well, I told him I was concerned about the following [by the FBI]. I didn't tell him I was tired, because I am sure I could continue to drive.

Q. Well now . . . you tell us Sobell was involved in espionage work, don't you?

A. Yes.

Q. Talk up, please.

A. Yes.

Q. And you tell us that Sobell said he has got some very important stuff, that it is dangerous for him to keep, and he is going to deliver it to Rosenberg; is that right?

A. Yes.

Q. The same day you were being followed by FBI agents, weren't you?

A. Yes.

Q. But it was fresh in your mind and you were worried that the Government agents were on your trail; is that right?

A. Yes.

Q. Nevertheless, you got into this automobile with Sobell and made that 10 mile trip; is that right?

A. Yes.

Q. Did you suggest to him or did he suggest that because you were followed it might be wiser that you stay home while he take this 10 mile trip?

A. I think I suggested. I didn't want to go because I had been followed. . . . He said he wanted me to go; *he was tired and he wanted to make sure that he would make the trip back.* (Emphasis added.)

Now here, indeed, is "the lie, turned topsy-turvy":

Q. [Kuntz]: Sobell drove?

A. Yes.

Q. That was after he told you he was too tired to drive?

A. Yes.

Q. He drove back home?

A. Yes.

Q. You didn't touch that wheel in that [entire] trip, did you?

A. Well, yes, I did, I parked the car, but other than that, no.*

And so the only basis on which Elitcher is able to account for Sobell's fantastic spy behavior is contradicted by himself!

*Record, pp. 361-366.

At the very conclusion of Elitcher's direct examination there is one bit of testimony which reveals the extent to which the prosecution went in its tactics of proving "guilt by innuendo":

Q. [Saypol]: Was there anything about some equipment that you noticed in Sobell's home, that you can tell us about?

A. [Elitcher]: Well, he had photographic equipment, enlarging; he had a 35 — a Leica camera, and an enlarger and material for processing film.

Q. In your experience with Sobell . . . is it accurate to say that material that you worked on in the Navy Department, that he worked on in General Electric in Schenectady, and that both of you worked on in Reeves Instrument, was classified?

Yes.*

What have we here but an ominous warning to every amateur camera enthusiast who happens to be employed on classified work in a defense plant? It matters not if the hobby be common to millions, it appears that the mere ownership of camera equipment may be introduced as circumstantial proof that one is photographing secret documents.

If Sobell were truly a spy engaged in illegal and "dangerous" photography would he do it in his own house? Would he keep around his own house all that camera equipment, including trays, chemicals, darkroom lamps, etc.? An enlarger is a sizable apparatus, almost as big as a suitcase. If Sobell was so afraid that an FBI search that night might result in the discovery of the tiny one-inch film can why was he not equally afraid that the FBI might come upon all his photographic equipment?

It is crystal clear that this last piece of testimony had no other purpose than to give credence to Sobell's possession of the 35-millimeter film can. In a moment we will see the insinuation that Sobell stole classified documents from Reeves, photographed them with his Leica, developed the film and placed it in the film can ready for delivery to Julius. But this theory presents another "hole." Because, if Sobell had ready access to the documents, why couldn't he simply destroy the film that night of Elitcher's arrival, and later steal the classified documents again to photograph at some safer time rather than take the terrible risks he did in the face of Elitcher's dire warnings?

*Record, pp. 262-263. (Note: See these pages also for subsequently quoted excerpts re Sobell's brief case.)

[Saypol cont'd]: In the time that you worked with Sobell at Reeves Instrument Company, or at any time, did you ever see Sobell take any papers or documents?

A. [Elitcher]: Well, in the course of his duties, I did, as far as I know, I saw him take — he had a brief case, and he did take things out of Reeves Instrument. I presume that they had to do with his work.

We had another installation at Roosevelt Field, Long Island, and he went there quite often, and I know that he did have a brief case and he took material out, but what it was, or what the material was, I do not know.

In courtroom corridor parlance the above type of testimony is known as "piling it on," examples of which were plentiful throughout the trial. But this particular instance merits special scrutiny because it illustrates so perfectly the technique of innuendo, nuance and insinuation used in political frame-ups.* Despite Elitcher's verbose response of some one hundred words, *the only damaging fact* we learn about Sobell is that he went to work with a brief case!

Sobell had a responsible assignment at Reeves. He was designing and supervising the manufacture of highly intricate radar instruments. A conscientious engineer in the process of creating does not switch on and switch off his brain as one punches a timecard in and out. Absorbed in a challenging problem, he takes it home to pore over it. And if it was necessary for Sobell, in the course of his work, to go to Roosevelt Field, was it not incumbent upon him to take his brief case along, containing necessary blueprints or pertinent memoranda? But here again Elitcher ruefully admits, "But . . . what the material was, I do not know."

We have stated before that it was the comparatively simple case against Sobell which provides the window through which one can best discern the nature of the entire frame-up. On Aug. 19, 1950, the following Associated Press dispatch was released in connection with Sobell's arrest at Laredo:

"He [Sobell] was employed as a project and research engineer on top secret gunfire control equipment manufactured for the armed services [at the Reeves Instrument Company].

"The Reeves plant is considered spyproof — with brick walls, daily building searches and closely guarded doors.

*In the Oppenheimer case, exposed by the Alsops as a "miscarriage of American justice," such evidence is described as "layer after layer of false appearances, chaff dressed up to look like corn." (See *New York Times*, Jan. 2, 1955.)

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"The plant's personnel manager, Thomas J. Reilly, said that Sobell could not have removed any written material from the plant without the strict supervision of employees." (Emphasis :

iii

"The highly novel technique of the . . ."

On July 21, 1950, according to Elitcher's direct testimony, he supposed to have had "a full discussion about Sobell" with Bloch. In cross-examination, however, he admitted it was almost certainly later that he "remembered" the role of Elizabeth Bentley in the Catherine Slip episode. Let us glance at this technique of evasion, recognition or tardy memory:

Q. [Bloch]: . . . You were given a high degree of confidence in unfolding your story?

A. [Elitcher]: Yes.

Q. Now did you at that time tell the FBI agent that you had a conversation . . . "Rosenberg said not to worry about the words to that effect?

A. I did not.

Q. Did you tell the FBI agent anything about the telephone trip . . . to Catherine Slip . . . ?

A. I did not.

Q. . . . The name Bentley was projected into the conversation either in the FBI or on the part of the United States Government, is that correct?

Here Saypol objects, Kaufman sustains and Bloch, on cross-examination, rewords the question:

Q. Well, was that somebody who mentioned the conversation connected with the prosecutor's office?

A. Yes.†

Now Bloch endeavors to uncover when it was that the Slip conversation was first related to the FBI. But Elitcher is sly about this as he is loath to state which FBI agent

*Quoted from the New York *Herald Tribune* columnist Joseph P. Kamp regarding the type of testimony sworn to by Louis Budenz. (*The Nation*, April 10, 1954.)

†Record, pp. 330-338.

gested Bentley's name. His best recollection is that it may have been in his Statement No. 3, which he signed sometime "near the end of 1950." However, when Mr. Kuntz takes up the cross-examination, Elitcher is finally cornered:

Q. [Kuntz]: Mr. Elitcher, your contact with Morton Sobell from 1942 to 1948 was very brief, very few in number, and comparatively brief; is that right?

A. [Elitcher]: Yes.

Q. This occasion of your trip to Catherine Slip, that loomed rather important in your mind, did it not?

A. Yes.

Q. As a matter of fact, according to your testimony, the only contact you have ever had in all this time with secret or dangerous stuff was on that trip, that ten-mile trip; right?

A. Yes.

Q. So that loomed very large in your mind; is that right?

A. Yes.

Q. But you didn't tell this to the FBI on the first visit?

A. No, I did not.

Q. By the way, when you finally reported this incident of the trip, the ten-mile trip . . . to the FBI, you even omitted the name Bentley, didn't you?

A. If I did, it was purely accidental. I hadn't intended to omit it.

Q. . . . Didn't you answer my question only a few minutes ago, when I asked you whether it wasn't a fact that you told about this conversation with Bentley after the FBI mentioned Bentley?

A. Yes, but much later. . . . At a much later period, I told them that the name Bentley had been mentioned to me by Sobell.*

Thus far we see that the Catherine Slip episode was not only supplied belatedly, but piecemeal. Can we believe that Elitcher would omit accidentally that which would be of *greatest concern to him* — Sobell's relayed report from Julius not to worry about the FBI's surveillance? This is the only night when Elitcher claims knowledge of any tangible act of espionage (the delivery of the "dangerous" film can). This is the only night in his self-proclaimed spy career that he fears actual danger from the FBI. This night is the one and only time he has ever heard the name of *any other spy* connected with his co-conspirators, to wit: Bentley. Truly, here is an occasion when one might turn a phrase and ask the classic Passover query: "Wherefore

*Record, pp. 368-372.

is this night distinguished from all other nights?" And yet we are asked to believe that it was this precise night which he failed to recall *only two years later* and only managed to remember in the following manner:

Q. [Saypol]: There came a time in the development of the case by the Government agencies that you continued your conferences and you supplied additional information?

A. [Elitcher]: Yes.

Q. That information was in part incorporated in a third statement that you have testified about?

A. Yes.*

Before we finish our study of Elitcher's testimony, there is one portion too vital to omit even though the *Columbia Law Review* summary fails to include it. It is in every sense his Achilles heel, for — according to his own testimony — in all the years of his participation in the alleged conspiracy *he never once received or delivered a single secret*. Let this be understood well: Not by word of mouth, or by deed, or in any shape, manner or form was there ever transmitted any document, note, sketch or blueprint whatsoever! Here are portions of his cross-examination regarding Rosenberg:

Q. [Bloch]: Did you pass any information, secret, classified, confidential or otherwise, of the Government of the United States, to the defendant Julius Rosenberg, at any time?

A. [Elitcher]: I did not.

Q. None whatsoever?

A. That is correct.†

And here Mr. Kuntz pins Elitcher down regarding Sobell, beginning with their alleged membership in the Communist Party:

Q. [Kuntz]: During all that time, Mr. Elitcher, '39 to '41, did Sobell ever ask you for any document belonging to the United States Government?

A. No.

Q. . . . Did Sobell in any way offer you any documents belonging to the United States Government?

A. No.

*Record, p. 388.

†Record, pp. 276-277.

Q. Did Sobell, by word, or action or intimation of any kind, suggest to you that you take United States Government material?

A. No.

And here Elitcher testifies regarding his later meetings:

Q. [Kuntz]: Now, on each occasion that you had a conversation with Rosenberg or with Sobell, where they made invitations to you, did you accept those invitations to commit espionage?

A. I accepted the invitations, yes.

Q. Did you get any documents from the United States Government?

A. No.

Q. Did you hand any documents of the United States Government to Sobell?

A. No.

Q. Did you hand any United States documents to anybody in this world, belonging to the United States Government?

A. Not unauthorized.

Q. I am talking about illegally?

A. No.*

We have been asked to believe that the veteran spy-master Rosenberg and his lieutenant Sobell continued to woo fatuously this timid little man for four long years without a *single* result. Is it conceivable that they would retain such Job-like patience and never once pressure or threaten him? This was no child's play. If they were spies, Julius' and Sobell's lives hung in the balance. It is possible they might have been beguiled to wait a few months or let us say even a year, but certainly not two, three and four years! Besides, there is no claim of beguilement or stalling by Elitcher; on the contrary, nothing but reluctance, timidity and undisguised fear.

Is it conceivable, after four years of such consistent failure on the part of Elitcher, that the spy-master Rosenberg would gratuitously furnish self-incriminating information about Bentley, thus giving the undependable Elitcher a nail to drive into Rosenberg's coffin?

All during these four years Elitcher shows himself to be anxious about his wife's suspicions. And yet where does he choose to spend his two-week vacation? At the home of his reckless co-conspirator Sobell, where he knows there is the incriminating photographic apparatus! In July of 1948 he was in abject terror that he had been followed to Sobell's house by the FBI. And yet where does he choose

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to purchase his house a few months later? Around a house with back yards adjoining! And where does he go? At Reeves — the very same defense plant from which Elitcher continues to take home classified material to photograph on to the Russians!

Let us review briefly the two principal conspiracies: (1) the alleged D-Day spy proposal, and (2) the alleged Catherine Slip. In both cases we see the technique of the cowed witness to extend actual innocent visits into criminal. Julius' 1944 visit Elitcher conveniently hooks the spy on his own 1948 visit to the Sobells he hooks Bentley; Catherine Slip. In the first episode he has Julius in hearsay. In the second episode he reverses it with Sobell by Julius by hearsay.

In both cases, although they represent the most important of Elitcher's testimony, there is the time-worn trick memory.

The D-Day spy proposal, the very beginning of Elitcher's involvement, is not recalled until January, 1951, or six months after he is supposed to have told the whole truth about Rosenberg.

The Catherine Slip episode, his very last conspiracy, is not remembered until the end of 1950!

And where is there any evidence of atomic espionage of Sobell warranting a sentence of thirty years? As Julius later admits, there is none.* In truth, as we have seen, the testimony of actual espionage — only hearsay, in the end. No witnesses, no documentary proof, nothing but uncorroborated word. The word of a self-admitted spy, only upon saving himself from prosecution:

Q. [Bloch]: . . . You were lying when you concealed your membership in the Communist Party?

A. [Elitcher]: Yes, I did.

Q. So you have lied under oath?

A. Yes.

Q. Were you worried about it?

A. Yes.

Q. . . . In 1946?

A. I think I was always worried about it.

Q. And . . . in 1947?

A. Yes.

*Record, pp. 351, 356-357.

*Record, p. 1620.

Q. And in 1948?

A. Yes.

Q. And you were also fearful about the oath you had taken?

A. Yes.

Q. Which was an absolute lie and perjurious; isn't that correct?

A. I knew the oath, yes.

Q. [Kuntz]: You want to save yourself, don't you?

A. Yes.*

iv

"... I had personality problems. ... I found it difficult to meet with people, to have a good time, to talk in front of an audience.

"... Without the aid that I went to, it would be difficult for me to present myself in front of this audience in this manner. ..."

— Max Elitcher's testimony; Record, p. 380

We have now examined every point of Elitcher's testimony contained in the *Columbia Law Review* summary. As we will see during the course of the trial, not one word of this testimony was corroborated by any other witness. Incredible as it may seem, it was on the testimony solely of this one admitted perjurer that the jury convicted Sobell.

How was it possible that the jury could find not *one reasonable doubt* in Elitcher's testimony despite everything that we have shown and more? And how was it possible for Judge Kaufman, again *solely* on the testimony of Elitcher, to impose upon Sobell the maximum penalty short of death under the Espionage Act — a sentence of thirty years?

There can be only one logical answer — that it was not a trial of evidence and that the jury never truly weighed the evidence. It was a political trial and the guilt of the defendants was the political guilt of dissenters from the moment they were accused and arrested!

Here is a breakdown of Elitcher's direct testimony proving that the prosecution established "guilt" chiefly by political testimony:

If we examine the 65 pages of his direct testimony, we will find that 82 out of the total 177 questions asked by Saypol — *or almost half* — were related to "intent" or alleged membership in the Young Communist League or Communist Party. And when one adds to this

*Record, pp. 278, 279, 361.

number all those questions later connected with "intent" because of the insertion of Bentley's name into the testimony, it can be seen how decisive was the total weight of political accusation.

It is for this reason that we have considered Elitcher's testimony of such vital importance in the analysis of the entire frame-up. Precisely because it stands alone and without corroboration it provides the clearest window through which one can see the extent of hostility and prejudice which permeated that chamber of doom. In other words, by examining what was allowed to be done to Morton Sobell on the basis of Elitcher's testimony one can better see the hollow pretense of the so-called fair trial given the Rosenbergs.

Before we take leave of Max Elitcher, a few personal observations are appropriate, perhaps by way of a postscript. It is, of course, tempting to comment on the almost inhuman statement quoted above in which Elitcher describes the benefits of his psychiatric treatment. One is painfully reminded of the cynical psychoanalyst who in a moment of candor admitted that his function in the present neurotic *Zeitgeist* was to turn out "well-adjusted bastards." We have already seen what Elitcher was capable of doing when he purchased the Sobells' furnishings at bargain prices even while he was having secret conferences with Saypol's staff. However, the court record throws additional light on the character of this person who admitted that he was "scared to death," who hoped he would "come out the best way" and that "nothing would happen" to him.

During cross-examination regarding who recommended Elitcher to retain Rogge as his counsel, Mr. Bloch endeavored to show that promises had been made and that permanent immunity from prosecution had been his reward for his perjured testimony. Bloch did this by exposing two facts which occurred just before trial: (1) Elitcher's employer at Reeves had asked him to resign only two weeks before trial, and (2) despite this loss of income Elitcher was so certain of his deal and so confident of his future that he had nevertheless purchased a brand new car for \$1,900.*

It was immediately following these admissions that Elitcher was first asked about his psychiatric treatment. On noting these facts, during a discussion with Mr. Bloch this writer inquired if the attorney had given any thought to Elitcher's psychological motives in purchasing the new car just before trial and just after his income had been cut off at Reeves. Certainly it was an inappropriate mo-

*Record, p. 347.

ment for Elitcher to advertise himself as so secure and affluent, especially when he knew he must shortly go on the stand and testify that no promises had been made to him. Mr. Bloch's reply was speculative but it is worth noting: The new car must have had a symbolic meaning for Elitcher, something in the way of a guarantee of the respectable status, security and prosperity he could expect now that he had cast in his lot with the politically orthodox.* In another sense, it was perhaps a behavior pattern characteristic of those tension-ridden persons who eat "reward" foods in times of stress.

In any event, although Mr. Bloch did not have concrete proof of the deal at the time of trial the subsequent exposure of Rogge's file memos disclosed the impatience of Elitcher to receive his reward. Indeed, only one week after his testimony — while the trial was still at mid-point — Elitcher and his attorneys were already demanding payment for services rendered! However, in his particular case it was not to be the usual thirty pieces of silver but, as indicated back in Chapter 8, a permanent FBI seal of approval. Here are some excerpts of the itemized bill rendered the Department of Justice according to the confidential files of O. John Rogge:

"MEMORANDUM

March 19, 1951

"To: OJR [Rogge]

"From: HJF [Fabricant]

". . . You suggested that it would be profitable to speak with McInerney . . . [Note: Assistant United States Attorney General McInerney]

"The importance of Elitcher's cooperation cannot possibly be underestimated . . .

"It is equally reasonable to assume that his cooperation in subsequent prosecutions by the government will be essential to the success of said prosecutions and it is also apparent that Elitcher will continue to cooperate."†

Thus far, Mr. McInerney is not only reminded of the value of Elitcher's recent services but also of his stand-by readiness to help convict anybody else he happens to know. Hence in May, 1953, we see him as an accusing witness in the perjury trial of William Perl,

*"Why does an apostate turn against his former comrades? Psychiatric studies are wanting. . . . Conceivably, he is moved by hate, fear, revenge, or perhaps a pathetic desire to regain status and respectability." (Richard C. Donnelly, in *Yale Law Journal*, November, 1951, p. 1126.)

†See Appendix 6.

"THE FRIEND OF HIS FRIEND"

another of his former classmates and another who refused he had done!

In July, 1953, one month after the death of the Rosens with Sobell in Alcatraz, we learn of Elitcher's secret before the Un-American Activities Committee, this time belated accusations against additional "Communists" who strangely enough, "he could not supply" at the Rosenbergs. Evidently the revulsion caused by this sort of testimony far south as Florida; here are some excerpts from the editorial which appeared in the *Pensacola Journal* on July 1, 1953:

"BELATED SPY ACCUSATIONS HAVE ELEMENTS OF DOUBT"

"Disclosure by a former Navy Bureau of Ordnance of the existence of an underground network of Communists is more than a little suspect. . . .

"The testimony [of Max Elitcher] was given in secret . . . at the demand of the Justice Department which a national security was involved.

". . . To be sure, there is no way of knowing . . . exactly why this witness supplied the evidence placed at the government's disposal, but it is safe to say that at best the witness is a suspect. . . .

"This belated patriotism smacks too much of a second-hand patriotism. . . . We do not take kindly to official backing of a man who maintained silence until they [the Rosenbergs] were ready to refute his statements."

Had the editor of the *Pensacola Journal* been aware of the proceedings before Judge Kaufman when Rogge's file was officially revealed, he would have had a fair idea as to how Elitcher supplied his belated evidence. For here is that memo showing the quid pro quo put before McInerney to express it in more colloquial terms, the "payoff":

"At the present time, Elitcher . . . needs a profitable employment. . . .

"It is evident that he will not be employed until his security status is cleared up. . . . In other words, if Elitcher be assured . . . that the appropriate authorities would clear him . . . and state things of commendatory nature . . . the obstacle to employment would be overcome.

"It is to this end that I think your talk with McInerney will be helpful. If the Department of Justice or the FBI

furnish Elitcher's prospective employers with a letter stating that they would be willing to appear or give testimony in his behalf at any future security investigation, it would be a most desirable achievement."

When Max Elitcher's testimony against Rosenberg and Sobell was concluded and he was about to descend from the witness stand there was a question whether or not he might have to be recalled for further testimony. At this point Mr. Saypol declared with a grand gesture, "The witness will always be available."

In view of the fact that Elitcher's "profitable employment" remains entirely dependent on his continuing readiness to be an accuser of former friends and classmates, it seems to us that no more fitting trade-mark could ever have been stamped on him.

"The Brother of His Brother"

*"My conscience hath a thousand several tongues,
And every tongue brings in a several tale,
And every tale condemns me for a villain."*

— King Richard III

IT was 2:30 in the afternoon of March 9 when the clerk called the prosecution's second witness, David Greenglass. Among the spectators there was a ripple of excitement and a craning of necks to see better the plump, wavy-haired prisoner take the stand. Then, as he raised his hand to swear the oath, all movement ceased and:

"The great court chamber was so silent that the clock tick seemed audible in the brief pauses."*

In the midst of this dramatic silence a young man seated at Saypol's side arose and stepped forward to conduct the direct examination. His name was Roy M. Cohn and he was just twenty-four years of age. It was no secret to the press how he had secured his important post so fresh out of law school. For his father was Albert Cohn, "a judge in the Appellate Division of the New York State Supreme Court, a one-time protégé of the late Boss Ed Flynn and a power in the Democratic Party."†

Despite his deceptive appearance — "sleepy eyelids and carefully slicked hair" — there is a dynamic quality about Cohn's short, dark figure which has been described as "a studied toughness of manner":

"He bounces about the room like a movie gangster who suspects that the draperies conceal a rival hood."‡

David Greenglass' testimony lasted all that Friday afternoon and all day the following Monday and part of Tuesday morning. It was followed by that of his wife, Ruth Greenglass. Here is the summary of

*New York Times, March 10, 1951.

†"The Self-Inflated Target," Time, March 22, 1954.

‡See "The Adventures of Cohn and Schine," in The Reporter, July 21, 1953.

their direct testimony in the *Columbia Law Review* presented in its full context,* the headings being our own:

1. THE ALLEGED SPY PROPOSAL TO RUTH

"Greenglass, an army private, was stationed in 1944 at the Los Alamos, New Mexico, atomic project. In November of that year, Julius and Ethel Rosenberg learned of Ruth's plans to visit her husband, told Ruth that David was working on an atom bomb, and persuaded her to ask him to supply certain general information concerning the Los Alamos project for transmission to the Soviet Union."

2. DAVID'S ALLEGED CONSENT TO BECOME A SPY

"After some reluctance Greenglass complied, relating the names of important scientists working on the project and giving information concerning security measures and the nature of his work."

3. THE ALLEGED EVENTS OF JANUARY, 1945

"Two months later [Correction: this should read only one month], in January, 1945, Greenglass, on leave in New York, supplemented this information with a sketch of a high explosive lens mold used in atomic experiments and a list of potential spy recruits."

4. THE ALLEGED TYPING BY ETHEL

"This information was typed by Ethel Rosenberg."

5. THE ALLEGED JELLO BOX RECOGNITION DEVICE

"A few days later, Julius Rosenberg introduced Greenglass to Ann Sidorovich, who was expected to visit New Mexico to receive further atomic information. Because it was not certain that Mrs. Sidorovich would be the messenger, a Jello box-top was irregularly severed and half given to Greenglass, the arrangement being that the eventual emissary would possess the matching half when contacting him."

6. THE ALLEGED MEETING WITH THE "RUSSIAN"

"During this same January visit, Rosenberg arranged a meeting between Greenglass and an unidentified Russian who questioned Greenglass about the lens mold."

**Op. cit.*, pp. 220-221. For David Greenglass' direct examination, see Record, pp. 394-466, 489-537; for Ruth Greenglass' direct examination, see Record, pp. 677-714.

"THE BROTHER OF HIS BROTHER"

7. THE ALLEGED VISIT OF HARRY GOLD

"In June, 1945, Harry Gold, who had previous contact with Dr. Klaus Fuchs, British atomic scientist on the Greenglasses in New Mexico and announced to transmit the secret data. On Gold's presentation of half of the box-top, Greenglass gave him a copy of the lens mold and a further list of spy prospects."

8. THE ALLEGED DELIVERY OF THE NAGASAKI BOMB

"In December, 1945 [correction: this should be 1945], Greenglass, again in New York on a furlough, presented a cross-section sketch and twelve-page explanation of an atom bomb based on overheard conversations at investigations at Los Alamos. Ruth Greenglass and Julius Rosenberg aided in the preparation of the report."

9. THE ALLEGED THEFT OF THE PROXIMITY FUSE

"Julius Rosenberg at this time mentioned activities involving a stolen proximity fuse, and had transmitted other information to Russia, subverted education of promising contacts, and engaged in espionage activities. After the war Rosenberg acted with two other partners, engaged in an unsuccessful venture."

10. THE ALLEGED PLANS TO ESCAPE

"When the courier Gold was apprehended in New York, Rosenberg advised the Greenglasses to flee, providing money and information concerning the smallpox inoculation necessary for entry into Mexico. Rosenberg indicated a plan to flee, mentioning his fear that he could be exposed by Jacob Golos, an exposed spy, and Elizabeth Bentley, a courier who had spoken to him by telephone."

[Correction: Nowhere in the record does Julius mention fear about Golos, nor does Greenglass mention it in his testimony. In May of 1950, Golos had been dead seven years in 1943.]

11. ETHEL'S ALLEGED TALK WITH RUTH

"After the arrest of Greenglass on June 15, 1950, Julius gave assurance from Ruth Greenglass that her husband was silent."

12. THE ALLEGED MONEY PAID THE GREENGLASSES

"Compensation to the Greenglasses for the entire venture totaled \$5,850." [Correction: This should read \$6,650.]

13. THE ALLEGED REWARDS GIVEN THE ROSENBERGS

"Payment to the Rosenbergs consisted of two watches, a console table suited for espionage purposes, and a citation entitling them to special privileges in Russia."

14. THE ROSENBERGS' ALLEGED POLITICAL IDEAS

"Finally, the Greenglasses testified that the Rosenbergs were members of the Communist Party and had often expressed their admiration for the Russian socialist system."

Although the *Columbia Law Review* presents its summary in chronological sequence, it reserves to the very last what should have been its first point, *i.e.*, the opening salvo against the political ideas of the Rosenbergs. Therefore, we will start with this point:

14. THE ROSENBERGS' ALLEGED POLITICAL IDEAS*

After the first twenty minutes of questioning regarding birth, schooling, work, etc., Greenglass was asked to recall the year of his sister's marriage to Julius in 1939:

Q. [Cohn]: And you were 17 years old at the time they were married, is that correct?

A. [David]: That is correct.

Q. Now did you have any discussion with Ethel and Julius concerning the relative merits of our form of government and that of the Soviet Union?

Upon the prompt objection of the defense, Roy Cohn replied by citing the case of a convicted Nazi spy named Haupt. It is significant how Judge Kaufman, in assisting Cohn, cues the witness:

Mr. Cohn: . . . The Supreme Court held in sustaining a *treason* conviction, they held that statements by the defendant showing sympathy with Germany and with Hitler and hostility to the United States were admissible as competent testimony.

The Court: What you are trying to bring out from the witness is the fact that the defendants expressed some form of favoritism to Russia in their discussions?

*For David's direct, see Record, pp. 414-421.

Mr. Cohn: Exactly, your Honor . . .

The Court: I believe it is relevant. (Emphasis added.)

Here, in this citation involving aid to an enemy, is another instance of how the defendants were tried for treason without the safeguards specified in the Constitution. Evidently encouraged by Kaufman, Cohn declares that the period of mortal sin began when Julius was but twelve years old!

Mr. Cohn: . . . The period of time I intended to introduce was beginning around 1930 and continuing up to virtually the present time.

However, upon defense objection, he skips to the period "from about 1935 to about 1946":

Q. I think you said these discussions with your sister began in 1935.

A. I did.

Q. When did they begin, as far as the defendant Julius Rosenberg was concerned?

A. About 1937.

Q. . . . How frequently would they express their views regarding the relative merits of the two countries?

A. I would say two or three times a week.

In the first instance, we see that when Greenglass claims to have had these political discussions with Ethel he was all of thirteen years of age. In the second instance, we are asked to believe that the two sweethearts, Julius and Ethel, had nothing else to do than to conduct such discussions with a fifteen-year-old boy as often as two or three times a week!

Q. [Cohn cont'd]: Talking about Socialism over capitalism, did they specifically talk about Socialism as it existed in the Soviet Union and capitalism as it existed here?

A. They did.

Q. Which did they like better? Did they tell you?

Here Mr. Bloch properly objects to the question as leading and suggestive. Whereupon Judge Kaufman, a past master in the art of casuistry, goes Cohn one better in suggesting the answer:

The Court: I will sustain the objection on that ground, which they like better. *But you tell us whether or not on any occasion they told you that they preferred one over another.*

The Witness: They preferred Socialism to capitalism.

The Court: Which type of Socialism?

The Witness: Russian Socialism. (Emphasis added.)

What is significant here is Judge Kaufman's special emphasis on issues which he knew were deliberately inflammatory. Although Cohn has just covered "Socialism as it existed in the Soviet Union" only two questions back, Kaufman aids him by obtaining repetitive responses from Greenglass. And in spite of defense objections "to any testimony about any ideas," Kaufman again helps Cohn by completing the line of inquiry himself!

The Court: But these conversations continued, did they?

The Witness: Yes, they did.

The Court: Along the same lines?

The Witness: They did.

Even if the Rosenbergs expressed a preference for socialism over capitalism, how could Kaufman possibly equate such a preference with Cohn's citation of the treason conviction of Haupt? When Eugene Debs and Robert La Follette ran for President on Socialist platforms, millions of Americans voted for them. In fact, La Follette received more than half as many votes as were cast for the Democratic Party candidate. Millions of Americans today believe in socialism as a superior economic system to that of capitalism. Their right to their beliefs is guaranteed by the First Amendment. How can any court legally equate such beliefs with "intent" to commit treason?

"David Greenglass' story, told in an undertone, gripped the courtroom in dramatic silence. His sister, Mrs. Rosenberg, grew pale; once she covered her eyes with her hands."

— New York Times, March 11, 1951

1. THE ALLEGED SPY PROPOSAL TO RUTH*

Continuing with the *Columbia Law Review's* summary of the Government's case, let us return to our first heading. Now that the political stage had been properly set, Cohn proceeded to question Greenglass concerning his first knowledge of the alleged conspiracy:

Q. Mr. Greenglass, when you went out to Los Alamos, was your wife out there with you?

A. No, she wasn't.

*For David's direct, see Record, pp. 421-424.

"THE BROTHER OF HIS BROTHER"

Q. I think you told us she went out there is that right?

A. That's right.

Q. When after August of 1944 did you

A. She came to visit me on our second It was November 29, 1944.

The record is clear that Ruth never visited until Nov. 29, 1944. The only reference made the date Greenglass originally took up his d What is significant is not that Cohn makes a at the very outset, but how readily Greenglass sibly a perfect example of the theory of the co And now follows an account of the Greer bration of their wedding anniversary which l: 29 to December 3 in the Hotel Franciscan. Th Ruth's departure, or the fourth day of their decided to relay the Rosenbergs' alleged prop

Q. [Cohn]: When during that five-day version had?

A. [David]: In the latter half of the furl walk out on Route 66, past the city, Albu and not yet to the Rio Grande River, and conversation.

[Note: Here is a typical example of hea David reporting what Ruth had told him of the Rosenbergs, and with no possible way it.]

My wife said that while she was still in New berg invited her to dinner at their house : She came to dinner and later on there was a the three present, my wife, my sister and my

It went something like this: *Ethel* start by stating to Ruth that *she must have not* was no longer involved in Communist Party

Q. [Cohn]: Go ahead, Mr. Greenglass.

A. That they don't buy the *Daily Worker* meetings, club meetings. (Emphasis added.)

Before we comment on this passage, let us i mony regarding this initial step as Assistant U. Kilsheimer III conducts her direct examination

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Q. [Kilsheimer]: Now will you state as best you can recollect, the substance of that conversation which you had with the Rosenbergs on that occasion?

A. [Ruth]: Yes. *Julius said that I might have noticed that for some time he and Ethel had not been actively pursuing any Communist Party activities, that they didn't buy the Daily Worker at the usual newsstand; that for two years he had been trying to get in touch with people who would assist him to be able to help the Russian people more directly other than just his membership in the Communist Party. . . . (Emphasis added.)*

At once we detect two different versions.* According to David's report, it was Ethel who made the first advance to Ruth. According to the latter, it was Julius. But, in either case, exactly how would Ruth Greenglass have "noticed" that the Rosenbergs were no longer active in the Communist Party? There is no testimony that she was a party member or had ever attended party meetings. How, then, would she have noticed the Rosenbergs' non-attendance at such meetings?

And how, exactly, could she have noticed that the Rosenbergs had stopped buying the *Daily Worker* at the usual newsstand? Her flat on Stanton Street was a considerable distance from that of the Rosenbergs. There is no testimony that she was ever present at whatever newsstand they happened to buy the *Daily Worker*. Are we asked to believe that she trailed them to "the usual newsstand" every day to observe whether or not they bought the *Daily Worker* there?

Furthermore, she states that Julius explained that this separation from the party had begun two years earlier. Since this non-active period corresponds exactly with that of Ruth's marriage (November, 1942, to November, 1944), in order to have noticed a *change* she would need to have had intimate knowledge of the Rosenbergs' alleged party attendance *prior* to her marriage.

However, prior to her marriage she scarcely knew the Rosenbergs except as they happened to be related to her boy friend, David Greenglass. And after her marriage, she had so little in common with them that she saw them only on David's furloughs or infrequently at her mother-in-law's home. How, then, would she be in possession of all this intimate knowledge concerning the Rosenbergs' alleged reading habits and party attendance?

It is plainly evident that this testimony is so illogical because it was intended to fit in with Bentley's subsequent testimony, namely,

*Compare Record, pp. 423-424 (David's testimony) with p. 679 (Ruth's).

that Communists are ordered to drop "open" party work when they take up "underground" work as spies.

But let us continue with Ruth's direct testimony to see how she reacted to the Rosenbergs' overtures:

[Ruth cont'd]: And he [Julius] said — I wanted to know how he knew what David was doing. He said that his friends had told him that David was working on the atomic bomb, and he went on to tell me that the atomic bomb was the most destructive weapon used so far, *that it had dangerous radiation effects*, that the United States and Britain were working on this project jointly and that he felt that the information should be shared with Russia, who was our ally at the time, because if all nations had the information then one nation couldn't use the bomb as a threat against another.

[Note: When we return to David's testimony, we will see that she gives him a different reason why Russia should be given the atomic information.]

He said that he wanted me to tell my husband David that he should give information to Julius to be passed on to the Russians.

And at first I objected to this. I didn't think it was right. I said that the people who are in charge of the work on the bomb were in a better position to know whether the information should be shared or not.

Ethel Rosenberg said that I should at least tell it to David, that she felt that this was right for David, that he would want it, that I should give him the message and let him decide for himself, and by the — Julius and Ethel persuaded me to give my husband the message and they told me the information —

I decided to give my husband the message, and Julius Rosenberg told me the things that he wanted me to ask my husband, the information that he wanted me to bring back.

Q. And what information did he ask you to obtain from your husband if he should be willing to do it?

A. He wanted a physical description of the project at Los Alamos, the approximate number of people employed, the names of some of the scientists who were working there — something about whether the place was camouflaged, what the security measures were and the relative distance of the project to Albuquerque and Santa Fe.* (Emphasis added.)

*Record, pp. 679-680.

Here, indeed, is a remarkably swift compliance. She objects, doesn't think it right, states a sound reason why such espionage should not be undertaken — but then promptly drops all objections. And not only does she plunge right into the conspiracy as a full-blown courier, but here is how readily she accepts the dangers involved:

[Ruth cont'd]: Oh — and he told me — I am sorry — he told me also to tell David *to be very circumspect* not to indulge in any political conversations and to be very careful not to take any papers or sketches or blueprints, not to be obvious in seeking information, to relate to me only what he retained in his memory. (Emphasis added.)

One cannot help being struck by the phrase "to be very circumspect." Certainly it is a most uncommon one and hardly idiomatic. While it is of minor significance, it is worth investigating its possible source. Here is Harry Gold's testimony concerning his instructions to David Greenglass in Albuquerque:

[Gold]: I told him *to be very circumspect* in his conduct and to never drop the slightest hint to anyone that he himself was furnishing information on the atom bomb to the Soviet Union.* (Emphasis added.)

Thus we have Ruth attributing to Julius the exact same phrasing which Harry Gold claims to have employed with David. If the prosecution would argue that Gold *knew* Julius, one might concede that the phrase was absorbed by one or the other. But the record furnishes no such claim by Gold. The phrase, of course, was picked up by Greenglass while he was lodged on the "eleventh floor" with Gold.

Throughout the Government's case, the charge was made that it was the Rosenbergs who had "sent" Ruth Greenglass to her husband. This is from Saypol's summation:

"Further, Julius and Ethel Rosenberg sent Ruth Greenglass to Albuquerque, in November of 1944 to get the atom bomb information from David Greenglass."

However, in her direct examination, Ruth clearly admits that she had *planned* to visit David for their wedding anniversary.

Q. [Kilsheimer]: ... Were you at that time planning to go and visit your husband in New Mexico?

A. Yes, I was.†

*Compare Record, p. 680 (Ruth's testimony) with p. 826 (Gold's).

†Compare Record, p. 678 with p. 1520.

Nor was it the first time she had saved visit. According to her testimony, early t three months with David at his post in Pe pointed out in Chapter 4, her Novemb made in order to explore the possibili an apartment in Albuquerque, and in months later, the record shows that she the duration.

2. DAVID'S ALLEGED CONSENT

If the speed of Ruth's decision to be breath-taking, what shall be said of D torial pool? Here is his direct examin actions to the proposal:

[David]: She told me that she didi ... And that she didn't want to tell :

But they told her that I would v I would want to help, and that at le was tell me about it.

... At first — she asked me what I I was frightened and worried about my wife I wouldn't do it.

And she had also told me that in Ethel had told her that Russia was : this information, and that she was that was coming to her. (Emphasis a

Greenglass' professed fright will be t. here let us compare the above motivati attributed by David to Ruth with a herself. In her testimony, we recall a monopoly of the United States — to giv the event the United States used the boi in short to create the present condition

However, this was a 1951 *concept*, ar in 1944 — five years before the Trum Soviet Union had set off an atomic exp Ruth was induced to say on the witness to Julius in 1944 — at least six months l sion at Alamogordo!

Proof that this motivation was thou

*For David's direct, see Record, pp. 425-427.

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mind by an over-zealous official is seen by comparing it with David's statement, which is not only totally different from Ruth's, but is in harmony with the period of 1944 — namely, that Russia, *as an ally*, "deserved this information."

Thus, on this most vital point — the Rosenbergs' motivation for the alleged crime — we see these two diametrically opposed versions betraying the fact that too many coaching officials were involved in the frame-up.

In passing, one might add that it was quite certain that the Rosenbergs had voiced strong disapproval of anti-Soviet forces in the Pentagon for withholding "lend-lease," for delaying the opening of a Second Front and for preventing full military collaboration. It will be recalled that the current slogan in such circles was to let "Russia bleed itself to death." In the previous chapter we have quoted Wendell Willkie's comment concerning the fact that some of our military leaders needed "public prodding." In most liberal publications during the war years there was bitter criticism of those who were seeking to prevent the all-out defeat of Hitler and hoping to turn the war against Russia. Hence the feeling that our ally Russia deserved to be treated as an ally was hardly a treasonable concept in 1944. In 1950-1951, however, the full truth of such political comments by the Rosenbergs, as recalled by the Greenglasses in their conferences with the FBI and Saypol's staff of "Red-hunters," was utilized to provide "motive" for espionage.

Continuing with Greenglass' direct testimony about his reaction to his wife's message:

[David]: So later on that night after the conversation, I thought about it and the following morning I told my wife that I would give the information.

Q. [Cohn]: Does that complete the conversation to the best of your memory that took place between you and your wife?

A. That's right. *Then when I told her what the conversation was* — I mean, I told her I would do it, she asked for specific things that Julius had asked her to find out from me. (Emphasis added.)

Examining this last response, it seems to this writer there is only one possible interpretation: That Greenglass fumbled and almost gave away the fact that it was *he* who had "told her what the conversation [with the Rosenbergs] was"!

But now to Greenglass' overnight decision: Here, if we believe their testimony, are two very frightened people faced with the most

terrifying decision in their lives. So anxious is Ruth, that she is reluctant even to tell her husband about the proposal. And when she does tell it to him David expresses fear, worry and outright refusal. *But what follows?*

"So later on that night . . . I thought about it."

Thought about what? What caused him to change his mind overnight? What was the magic that dissipated all his fears as well as those of his wife? This question is all-important because it involves the most crucial matter of the Greenglasses' credibility, *i.e.*, their motive in becoming Soviet spies.

According to Saypol the motivation of the Rosenbergs and Sobell lay in their indoctrination as Communists and their blind obedience to orders from Moscow. But if we are asked to accept Elitcher's twenty-five-minute recruitment on such a basis, on what basis shall we accept the astonishingly swift submission of the non-Communist Greenglasses?

Ruth's *only* explanation for her joining the conspiracy is the persuasiveness of her in-laws. She makes no claim that she had ever been a Communist or had any desire to aid the Soviet Union. From the start she states she didn't think it was right, had objected — in fact, had "refused." Why, then, did she painstakingly memorize and relay Julius' criminal instructions? Is it conceivable that the strong-willed Ruth Greenglass would have allowed herself to be made into such a pawn as the result of a few minutes' chat? Would she not have said, "I'll think about it a few days and let you know before I leave"? There were no dire threats or warnings of party "discipline," or appeals to give one's all for the "Cause." Nothing but her in-laws saying that they were sure David would want to help and therefore "the least she could do was to tell [him] about it."

The least she could do *for whom?* Not for Ethel Rosenberg certainly. One does not court disaster merely as a favor to a sister-in-law with whom one is not especially in rapport. Thus, we are asked to believe that it was the least she could do for David. But why? Was it her bounden duty as a wife to give her husband this golden opportunity to join a dangerous spy ring?

And for what? Not for profit, to be sure. Because her testimony denies this categorically.* For what then? Was it possibly for David's

*In her subsequent testimony Ruth claims that, in conjunction with her travel expenses to Albuquerque, Julius gave her a loan of \$150. At the time of the spy proposal, however, this alleged payment was never mentioned by Julius, hence it was not an incentive to Ruth. At a later date, during January, 1945, Ruth claims that Julius informed her to consider the loan as "a gift." (Record, pp. 681, 691-692, 751.)

blind devotion to the Soviet Union? But no! Nowhere in the record is there any suggestion of this. True, as a boy of sixteen he had once played in a Y.C.L. handball tournament, but this is scarcely motivation to risk one's life as a Soviet spy.

Now we can see why Roy Cohn had Greenglass testify about the Rosenbergs' preference for "Socialism over capitalism." It was designed to serve as David's youthful indoctrination.* But even if we would concede this, Greenglass' testimony contains no suggestion that he had ever *agreed* with the Rosenbergs. There is nothing whatsoever in the record about the Greenglasses which even suggests the usual stigmata attached to Communist sympathizers; no nominating petition containing their signatures, no coin collection box on their kitchen shelf, no membership in a single Communist "front" — nothing!

If we glance back at the last section of David's testimony, we find that the motivation paragraph is belatedly inserted just before the paragraph describing his decision. Hence, by inference, we are asked to believe that this was also *his* motivation, despite the fact that the one contained in his wife's testimony has an entirely opposite meaning!

It is exceedingly strange that so much is attested about the political affiliations, ideas and beliefs of the Rosenbergs and Sobell, while nothing in the way of such proof of "motive" is offered to explain that of David Greenglass. The only testimony regarding his reasons for becoming a spy comes out in cross-examination:

Q. [Bloch]: From the time that you told your wife that you were not interested and that you wouldn't do this work, to the following morning when you told her you would, did you consult with anybody?

A. [David]: I consulted with memories and voices in my mind.†

It should be noted that from the moment cross-examination commenced Greenglass' manner was contemptuous toward the defense.

*See also Rogge's insistence that the Greenglasses had always resisted successfully "attempted indoctrination" by the Rosenbergs:

"David and Ruth Greenglass, yes, wanted to see a better world, but they did not want to see a Communist one." (Record, pp. 1625-1626.)

†Record, p. 539. For further excerpts from this cross-examination, see pp. 540, 551-553.

The above exchange appears only three or four times. After he had concluded direct examination, and evidently highly pleased with his performance, took it the undisguised disdain which the prosecution had shown the defense since the start of trial.

It is difficult to assess Greenglass' reply — "I hear many memories and voices in my mind" — other than unsurpassed impudence. In his summation Mr. Bloch said of the incident: "He was arrogant. He felt the weight of the United States behind him."†

Still striving to elicit some credible motive Bloch continued:

[Bloch]: ... Did it occur to you at the time you said to your wife "I will do this" and then you gave her certain information, that there was a possibility of espionage?

[Greenglass]: Yes.

Q. You knew that?

A. I did.

Q. When you said to your wife "Yes, I will do this," was that correct?

A. That is correct.

Q. Are you aware that you are smiling?

A. Not very.

All through Greenglass' testimony there was a grin and grinning. In his summation Emanuel Bloch said of this conduct as nothing less than animal-like, the horror of a man "who comes around to bur-

*Here is an example of how Kaufman sought to bring out the truth:

The Court: Well, let me ask you this, Mr. Phillips, have you any criminal cases?

Mr. Phillips: Strange as it may seem, I tried a few.

The Court: Well, let me ask you this, Mr. Phillips, have you any estate field. (Record, p. 202.)

In vain did Mr. Phillips, who practiced law long years, seek to reply that he had tried a criminal case in court only a few years before, but the gavel cut him off. Example of Kaufman's contemptuous attitude:

Mr. Kuntz: May I finish my argument?

The Court: Mr. Kuntz, no, you may not. It is your turn.

(Record, p. 808.)

†Record, p. 1468.

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smiles." Here is the New York Times of March 13 and 14, 1951, on this same point:

"The first public disclosure of the composition and function of the super-secret Nagasaki-type atomic bomb came yesterday from the *smiling lips* of a witness....

"*Smiling*... the witness [described Ethel's typing and Julius' stealing of the proximity fuse]...

"*Flashing his customary smile*, the moon-faced witness said...

"'Sure,' the witness replied *smiling*, 'a lot of little appliances go into something big.' [Describing his easy success in 'snooping' out the secrets of Los Alamos.]" (Emphasis added.)

And here is an excerpt from the Joint Committee Report:

"David Greenglass, for his part, *smiled* while testifying about the atomic bomb before a crowded courtroom in New York...." (Emphasis added.)

When we search the record for an explanation of Greenglass' overnight reversal other than his nocturnal "memories and voices," we come across passages such as this:

Q. [Bloch]: Did you believe you were doing an honorable or dishonorable thing?

A. [Greenglass]: I didn't even think of it that way.

The Court: How did you think of it?

The Witness: I thought of it from what I had — on the basis of the philosophy I believed in. I felt it was the right thing to do at that time.

Q. [Bloch]: You felt it was an honorable thing to do; is that what you are trying to tell us?

A. The right thing to do according to my philosophy at that time.

Here is offered nothing more than the vague word "philosophy," and although Mr. Bloch invites the witness to expound, all we learn is that Greenglass felt righteous at the time. And yet, with the very next question, comes a curious admission:

Q. [Bloch]: And did you continue to think that what you were doing after November 29, 1944, and up to and including the time that you got out of the Army, that you were doing the right thing?

A. [Greenglass]: I was having my doubts.

Q. When did you begin to have doubts?

A. Almost as soon as I started to do it... I started to have doubts almost as soon as I said that I was going to give the information.

An odd philosophy indeed, which leads one into a morass of doubts at the very moment one is relying upon it. But such is the price of trying to have one's cake and eat it. Even while Greenglass is trying to provide some believable motivation, he is, at the same time, seeking to establish himself as the reluctant, helpless pawn. Aware of this contradiction, Judge Kaufman decides he needs immediate help, and so we finally arrive at Greenglass' only explicit statement regarding his motivation:

The Court: Now you saw Mr. Rosenberg in January [1945] within a short period of time after you had these doubts that you speak of; did you relate to him on that occasion that you had doubts about the propriety of it?

[Greenglass]: No, I did not say anything to him because... because, as I said, when I first started to do it, it was one of the motivating factors for doing it.

I had a kind of hero-worship there and I did not want my hero to fail, and I was doing the wrong thing by him. That is exactly why I did not stop the thing after I had the doubts.

Q. [Bloch]: You say you had a hero-worship?

A. That is right.

Q. Who was your hero?

A. Julius Rosenberg.

Nowhere in Greenglass' direct examination all Friday afternoon was there any mention of this motive, *i.e.*, his hero-worship for Julius. Only in his cross-examination on Tuesday do we hear about it for the first time.

It will also be observed that the motivating factor comes forth not as the result of Bloch's questioning, but of Kaufman's. Therefore one is compelled to ask: What happened over the week end? Did Saypol and Cohn suddenly realize that they lacked a reasonable motivation for Greenglass' unexplained overnight decision? Or was it brought to their attention privately by Kaufman, who, as we will see, soon assumes the role of prosecutor-in-chief?

While we are dealing with Greenglass' "hero-worship," it is worth examining the direct testimony of Ethel Rosenberg:

The Court: Did he [David] sort of look up to you?

A. [Ethel]: Yes.

Q. And your husband?

A. He liked us both. He liked my husband.

Q. Sort of hero-worship?

A. Oh, by no stretch of the imagination could you say that was hero-worship.

Q. You heard him so testify, did you not?

A. Yes, I did.*

Observe the deviousness of Kaufman's questioning, as he strives to bolster David's motivation, and moves from "sort of look up to you" to "sort of hero-worship." Ethel could have easily qualified her replies, but she answers in a straightforward manner, making no attempt to deny that her brother looked up to her and liked Julius. Yet, when she refuses to concede that this constituted hero-worship, we see Kaufman getting in the last blow, "You heard him so testify, did you not?" — thereby communicating to the jury his disbelief of Ethel's denials.

To sum up, there are these three questions regarding the credibility of David's hero-worship:

1. Is there evidence to prove that he actually worshipped Julius as his hero?
2. If he did, was this hero-worship so overpowering that it would compel him to become and remain a Soviet spy in the face of all known risks, as well as his admitted anxieties and doubts?
3. Did Ruth know about David's hero-worship, and if so, would she have permitted her husband's and her own involvement in the spy ring merely on this adolescent basis?

Regarding the first question, is there anything in the record which corroborates this hero-worship of Julius? Nothing whatsoever. On the contrary, we have seen it replete with instances of David's deep-seated resentment and hostility, all of which came to the surface almost as soon as he entered the business venture with Julius:

A. [Greenglass]: There were quarrels of every type and every kind. I mean there was arguments over personality, there was arguments over money, there was arguments over the way the shop was run, there was arguments over the way the outside was run.†

Regarding the second question, even if we concede the likelihood of hero-worship during David's teen-age period, it is extremely

*Record, p. 1322.

†Record, p. 664.

doubtful that it would have continued into the future. We recall that when Julius was a youth he was Tom Mooney and the over-all fight against him to show that Greenglass was ever interested in it.

Is it conceivable that Greenglass, a married man, drawing to a close and eager to settle down and be so swept away by an adolescent hero-worship, would take all the risks previously described?

Which brings us to our third question: Would David, even as a wife? Certainly, if there had been any other David claims, she could not have been in total all the years she knew him. Did she approve of him when everything points to the fact that she disapproved of him? Was it to encourage this thing he stood for? Was it to encourage this thing he became a spy? Can we believe that the hard-headed man, convinced by such fatuous arguments as: "I [do] fail . . . [it would be] doing the wrong thing."

Finally, let us see what the Joint Committee's special section labeled "Motives." It will be of no use there is a laborious attempt to speculate on what motivations may have been, the latter's claim of he

"In Greenglass' case money may have been a motive. There are also traces of evidence, especially [from Allan Nunn May], that the spy helped just himself by reasoning thus: Russia is an ally and we can give it all possible help; the divulgence of information is in the tradition of free interchange of atomic data might promote industrial progress in a backward nation like the Soviet Union; and we may possibly have been influenced by similar motives. There may also have been a powerful element of ego in the actions of the atomic spies."*

According to these conjectures, first we are given the ego motive, then with the Russia-as-an-ally motive, the patriotic motive and finally with that of ego-gratification. The only motive which is explicitly stated in the record is hero-worship — receives no consideration whatsoever.

*Here we see how the Report strives to equate the actions of Greenglass with Dr. May, who is described by the Joint Committee as a Communist and a key atomic scientist." It is hardly surprising (Op. cit., p. 11.)

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To summarize, then, one is justified in concluding that the prosecution failed completely in establishing credible motivation for the Greenglasses' alleged crimes. In fact, the very application of such an obvious piece of patchwork — the belatedly remembered hero-worship — betrays more than anything else the tissue of falsehood it was designed to hold intact.

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In examining the manner in which the testimony of the Greenglasses was largely based on innocent conduct, whether the Rosenbergs' or their own, the following portions illustrate clearly the anatomy of frame-up. For we will soon see that what was declared to be instructions from Julius was actually nothing more than normal conversations such as would have occurred between a soldier and his wife who had not seen each other in some eight months. In other words, what Ruth undoubtedly asked David about the work he was doing and the distance he had to travel from Los Alamos to Albuquerque was later transformed into Julius' request for illegal information. Here is Greenglass' direct testimony, stating when it was that he first discovered the nature of the work at Los Alamos:

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A. [Greenglass]: When my wife came to visit me in November, 1944, she told me that Julius had told her . . . She told me that Julius had said that I was working on the atomic bomb.

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Q. [Cohn]: And that was the first you knew of it?

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A. It was.

Q. During that first few months you did not know just what was being done at Los Alamos?

A. That's right.*

Now let us see what were the "specific things" Ruth had been asked by Julius "to find out" from David:

A. She asked me to tell her about the general layout of the Los Alamos Atomic Project, the buildings, number of people and stuff like that; also scientists that worked there, and that was the first information I gave her.†

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At this point, Greenglass was asked about the various scientists who worked at Los Alamos under secret pseudonyms, for example, Dr. Bohr, the famous Danish physicist who was known there as "Mr. Baker":

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*Record, pp. 399-400.

†Record, pp. 425-426.

A. I gave her Oppenheim's name, I gave her Bohr's name and Kistiakowski's name.

[Note: Dr. George Kistiakowski, a physicist formerly of Harvard. By "Oppenheim," Greenglass means Dr. J. Robert Oppenheimer, head of the project.]

Somewhat earlier in his testimony Greenglass had been asked:

Q. [Cohn]: . . . Did you know that Dr. Harold Urey was connected with the Manhattan Project?

A. I did.

Q. About what point after your arrival at Los Alamos did you learn that fact?

A. Oh, it must have been about December or so.*

Since Greenglass had placed his espionage conversation with Ruth at the end of November, it was entirely logical that Dr. Urey's name be excluded. However, let us turn to his cross-examination:

Q. [Bloch]: When for the first time did you find out that Dr. Urey was connected with the Project?

A. It was in that interval *before* my wife came out.

Q. Did you tell your wife about Dr. Urey?

A. *I believe I did tell my wife about Dr. Urey.* (Emphasis added.)

Here it is plainly evident that the defense has uncovered a flat contradiction. If Greenglass, as he admits, learned of Dr. Urey's presence only "about December or so," this was not *before* Ruth's arrival on November 29, but *after*. Now let us examine his vague responses describing his very first act of espionage:

Q. [Cohn]: You say you gave her a general description of the layout at Los Alamos, is that right?

A. That's right.

Q. How about the number of people there, the personnel, did you give any estimate of figures on that?

A. I gave her an estimate of how many people there were in the technical area.

And here, in contrast, is Ruth's direct testimony:

Q. [Kilsheimer]: Now will you tell us as best you can recall what information your husband gave you on that following day?

A. [Ruth]: Yes. He said that Los Alamos had formerly been a

*Compare Record, p. 411 with p. 649.

riding academy, that it was forty miles from Santa Fe and about 110 miles from Albuquerque,* that the project itself was on the top of a hill and it was secluded; you could hardly see it until you were almost on top of it; that there was a guard at the entrance at all times, and everyone was checked going in and out.

He told me the names of the scientists, Dr. Urey, Dr. Oppenheimer, Kistiakowski, Neils Bohr.

[Note: Here Ruth includes Dr. Urey, even though David first learned about his presence in December, *after* her departure.]

David told me that he worked in an experimental shop, that he made models from blueprints that scientists brought in to him.

Q. And did he tell you the approximate number of people who were working at Los Alamos?

A. Yes, he did.

Q. Do you remember now what figure he gave you on that?

A. No, I don't recall.

Q. Now, when your husband related this information to you, did you write it down or what did you do with it?

A. No, I memorized it. He told it to me and then I repeated it to make sure that I remembered all the details.†

Compare the two versions: Whereas Ruth gives a detailed description, David, who supposedly did the describing, can furnish no details at all! And while this so-called information sounded most incriminating in the atmosphere of 1951, all that happened actually was that a soldier innocently told his wife in the most general terms where he was working and what he was doing.

Most significant in this regard is Ruth's memory of the exact mileages contrasted with her failure to remember the approximate number of personnel. The reason for this is very apparent. Because the long distances which David had to drive back and forth each week end were real to her, and therefore remained fixed even after many years, whereas the number of personnel employed at Los Alamos was an unimportant item she had heard in idle conversation during her stay in Albuquerque and had forgotten.

[Ruth cont'd]: I told him that Julius was interested in the physical description of the project at Los Alamos, the approximate number of people employed there, whether the place was camou-

*In later testimony, Ruth admits that she learned these distances during her stay in Albuquerque, presumably from innocent conversations. (See Record, p. 754.)

†Compare Record, p. 427 with pp. 683-684.

flaged, what the security measures were David himself did, and then my humiliation.*

What kind of physical description of the Project could the Russians possibly get if it had once been a secluded riding academy? According to so general a description, that any compass point 40 miles east or west of Santa Fe, and still be within a 110-mile radius, why should the Russians want to know? Did they contemplate sending a secret report in 1944?

On this point, it is significant that David used any camouflage. As for security measures, the information that there was a guard at the entrance, that personnel were checked, Is this unusual? Such wartime measures are common at a military installation, old-fashioned gunpowder is made there.

Finally, we are asked to believe that about David's work in *particular*, all that he did was "work in an experimental shop" making models from blueprints that scientists brought in to him. What kind of shop? What type of blueprints? Why didn't David relay to his wife on a portion of the High Explosive Laboratory's only valueless and harmless information that he very well have told his wife quite frankly?

In essence, the testimony discloses a pattern of lies: First, if Julius, as a spy-master, was working on the atomic bomb, then his questions were directed to that end, and not to the totality of the Greenglasses claimed he requested. Second, if Julius was a super-spy as Dr. Fuchs working for the Soviets, they must have known already that then he and Oppenheimer, Bohr and Urey were connected.

In short, all of Julius' alleged questions were one dealing with David's particular work, so general that it could have been shouted

*Under cross-examination, the defense successfully exposed a "studied rehearsal" by asking Ruth to repeat which she did almost *verbatim*. Compare Record, pp. 727 and 728.

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In concluding this phase of the Greenglass testimony, we find still another contradiction. We have seen how definite David was about his ignorance of what work was going on at Los Alamos. Until the moment of Ruth's message, he professes to have known nothing whatsoever about it. And yet, on the "following morning" after Ruth's message, suddenly he has the *secret* names of Drs. Bohr, Oppenheimer and Urey right on tap! Therefore, if he knew these forbidden names *prior* to Ruth's arrival,* it follows that he must have had some knowledge of the true nature of the project long before Julius' message. Hence (Q.E.D.), it was a bare-faced lie when he maintained that he knew *nothing* prior to his wife's visit. In another portion of his testimony, his knowledge of the nature of the project is clearly implied:

Q. [Cohn]: You knew that the information as to who Dr. Bohr out there was, was secret?

A. [David]: I did.

Q. I assume as a practical matter that one's former occupation in a particular field of science would be a clue to the particular work he might be doing?

A. That is correct.†

Returning to Ruth's testimony describing the Rosenbergs' original spy proposal, it will be recalled that Julius informed her not only that the atomic work David was engaged in would produce "the most destructive weapon" ever known, but also that this work had "dangerous radiation effects."

Hence it is not unreasonable to expect that this young wife would be more than anxious to know about her husband's safety and health at the project, and especially so when she believed he was in total ignorance of the fact that he was "working on the atomic bomb." And yet, what do we find concerning such normal anxiety in Ruth's testimony? Nothing whatsoever! Nor, for that matter, is there a single word in David's testimony concerning the radiation effects to which he might be exposed — whether as the result of being apprised of the danger or as an attempt to allay his wife's fears.

In other words, if we are to believe their testimony, not a word was spoken regarding a subject that should have concerned them as seriously as the spy proposal. And since this is completely incredible, it is further proof that their testimony was perjurious.

*Record, pp. 409, 410-411, 649.

†Record, pp. 410-411.

But why, it is interesting to ask, if they fabricated so much, did they not also include this subject? For the simple reason that it would have exposed other lies, namely, Greenglass' claim that he did not know the nature of the work at Los Alamos prior to his wife's message. And this claim is one of the most gaping "holes" in the prosecution's case. Because, under cross-examination, Greenglass tells that he had full access to the technical area; in fact, as he states: "all over the technical area, it was perfectly all right for me to go."*

But, as the public is now aware, the imminent danger of Alpha, Beta, Gamma and Neutron rays was not only known, but every possible precaution was taken. So serious was this problem that "in 1942 some of the American atomic experts still believed it would be practically impossible to protect the workers in the atomic industry . . . against the rays produced by nuclear fission."† And yet, we are not only asked to believe that Greenglass was totally unaware of the atomic work surrounding him, but also that he and his wife never even discussed the possible danger. But what is still more fantastic is the claim that Ruth did not mention the knowledge she possessed — "that David was working on the atomic bomb" — until the fourth day of her visit!

(Note: In Ruth's testimony, it was "towards the end of his pass" that she first told him about the spy proposal. In David's testimony, it was "in the latter half of his five-day pass.")

In piecing together their testimony, one can pinpoint the alleged conversation on Route 66 as having taken place on the day before Ruth's departure, and David's alleged acceptance of the spy proposal on the morning that she left — or the fourth and fifth days of their reunion. And while it is reasonable to believe that a young wife might put aside all other matters in order to properly celebrate her second wedding anniversary, it is just inconceivable that she would not even *mention* the subject of the "dangerous radiation effects" for three days and nights!

How was it humanly possible for Ruth Greenglass to restrain her anxiety all this time and not even inquire whether or not her husband's work brought him in direct contact with the deadly material in the bomb?

In their entire testimony, there is no explanation for this extraordinary delay other than the passing comment made by David in direct examination:

*Record, p. 621.

†Robert Jungk, *Tomorrow Is Already Here*, Simon & Schuster, New York, 1954, p. 109.

"She told me she didn't think it was a good idea. And that she didn't want to tell me about it."

Let us ponder this a moment. We are asked to believe that they were wrestling with a momentous decision involving risk of the death penalty. But Ruth's total reaction was that it was not "a good idea." This is the kind of offhand remark that one might make about some playful prank such as ringing strangers' doorbells. Not once, in relaying the spy proposal, does she give utterance to any expression of anxiety, either about David's being caught as a spy or about the possible danger of radiation effects. Never once does she say: "Look, Dave, maybe you better think it over; we're not playing with marbles . . . and if you still want to do it, you can always tell them so when you come home on furlough; it's only a few weeks off."

Actually, Greenglass' furlough was due in only twenty-nine days because, according to his testimony, he arrived in New York on January 1, 1945. (Note: Ruth left Albuquerque on December 3.) It was an annual furlough of accumulated time, and to any soldier's family such an event is a most anticipated occasion. Moreover, David's letters to his mother were read to her by his sister Ethel, and so the Rosenbergs were perfectly aware of his long-awaited homecoming.

It is a cardinal principle among spies to take no unnecessary risks and to involve as few persons as possible. Why should the Rosenbergs have taken the additional risk of involving Ruth in the conspiracy, when they could have spoken to David confidentially in so short a time?

It may be argued that the Russians were in desperate haste, that Julius was told to secure information on the atomic bomb as quickly as possible. But we have seen that his queries had nothing to do with the bomb. Furthermore, if the Russians were really in haste, we have it from J. Edgar Hoover's *Reader's Digest* article that Julius' superior, Yakovlev, was informed by Gold that Dr. Fuchs was expected "home for a Christmas visit."

(Note: This would be Christmas, 1944. Hoover writes further that Fuchs and Gold "reestablished contact in Cambridge . . . shortly after Christmas.") And when we examine the date when Ruth transmitted David's "information" to Julius in New York, we find it to be on or about December 10, 1944.*

Strange that the Soviet spy ring, entrusted with the most important mission in history, should attempt to recruit a spy through a hostile wife, when all they had to do was wait fifteen days for Dr. Fuchs'

expected arrival on or before December risk so much for what was at best some from an ordinary machinist, when they would soon be arriving with a first-hand "critical information." Here is the Join: of Dr. Fuchs to the Russians:

"In August 1944, Fuchs moved there until June, 1946. He took atomic bombs; he was privy to atomic weapons, and he possessed the period as regards the hydrogen surrounding the wartime Los Alamos withheld from him. . . ." (Emphas

In David's subsequent testimony den in New York, right at the start we note on the part of Julius. Instead of seeing possible, we find this:

Q. [Cohn]: After your arrival in time when you saw the defendant J

A. Yes, he came to me one morning information, specifically anything of whatever I knew about it.

Q. About how long after you had this conversation take place?

A. A few days after I arrived.

Hence the argument that there may Julius in November is answered negatively, according to Ruth's testimony. Julius he came to see her only "two or three" Albuquerque in December.

In concluding this section, there is the the Rosenbergs take this totally unnecessary was no certainty that David would agree he flatly refused? Certainly the Rosenberg membership in the Y.C.L. at the age of six a desire to get into a handball tournament since that he was ready to lay down his Communism."

*See Overt Acts 5 and 6 in the final indictment; Record, p. 3.

*Op. cit., pp. 1, 6.

†Record, p. 428.

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Hero-worship when he was a youth of seventeen? But that had been five years before. How could they realistically take such risks on no other basis than an adolescent admiration? And if there was only this basis, why should they approach him by proxy via Ruth? For, if he and/or she refused, they would have exposed themselves in vain. Suppose Ruth, who at best had only polite scorn for their political sympathies, turned David completely against them? Whereas they might trust him to keep their secret, Ruth was related only by marriage and a wartime marriage at that. How could they take a chance on what Ruth might feel toward them after a possible quarrelsome divorce?

To summarize the alleged spy proposal and the Greenglasses' prompt acceptance of it, their testimony is incredible from start to finish. It lacks reasonable motivation at every stage, from the Rosenbergs' unnecessary involvement of Ruth to David's belatedly-thought-of hero-worship. Not only do the Greenglasses present conflicting testimony about the Rosenbergs' motivation for committing espionage but, on the face of it, Ruth's version is a fabrication in tune with the Government thinking of 1951. Improbabilities exist at every turn, from their complete failure to mention the dangerous radiation effects to the unbelievable three-day delay. And as for the so-called illegal information allegedly transmitted to Julius, we have seen that it was not only valueless to the point of absurdity, but that it was basically the transformation of innocent conversations such as would have taken place normally between a husband and wife.

In short, it was the easiest kind of testimony for the Greenglasses to supply the prosecution, because all they had to do was add to a harmless anniversary reunion a falsity here and a distortion there. But perhaps this aspect of their testimony was so carelessly contrived precisely because it was so easy.

3. THE ALLEGED EVENTS OF JANUARY, 1945*

Toward the conclusion of the previous section we have seen that Julius allegedly waited a few days after David's arrival in New York. Continuing with Greenglass' direct testimony, we are told that Julius paid him a visit at this time to obtain such additional information as Greenglass could provide. Here is the substance of this information according to Greenglass:

1. "A list of scientists who worked on the project."
2. "Some possible recruits . . . for Soviet espionage."

*For David's direct, see Record, pp. 427-429, 438-454.

3. "A sketch of the [High Explosive] lens mold," plus a written description of it "on a separate sheet of paper."

Concerning the list of scientists, these turned out to be the same names allegedly given to Ruth in Albuquerque. It would be understandable if Julius had asked for new or additional names, but the repetition of the same names would seem to indicate that Greenglass was instructed to "build up" the quantity of information given Julius on this occasion.

Concerning the alleged list of spy recruits, it is highly significant that Roy Cohn does not ask Greenglass for any specific names. There is no more than this flat assertion:

[Greenglass]: He said he wanted a list of people who seemed sympathetic to Communism and would help furnish information to the Russians.

Q. [Cohn]: And you furnished him with such a list; is that correct?

A. I did.

In Elitcher's testimony, too, there is this recurrent theme of having Sobell ask for possible spy recruits, and there, too, the prosecution shows a suspicious lack of interest. Thus we are presented with another obvious "build-up" — this one having the political objective of establishing the formula that sympathy-to-Communism equals willing-spy-recruits.

As for the sketch of the lens mold, right at the outset there is gross exaggeration:

[Greenglass]: I wrote up the information. . . . It included sketches of the lens molds. . . .

I gave him some sketches of flat type lens molds.

Q. [Cohn]: . . . Exactly do you remember how many sketches you gave him?

A. I gave him a number of sketches. . . . (Emphasis added.)

And yet a minute or two later Greenglass himself reduces this number to but a single sketch:

A. I gave him a sketch of the lens mold. . . . The sketch was on one sheet and the description on another sheet.

Q. [Cohn]: Now, Mr. Greenglass, have you at our request prepared a copy of the sketch of the lens mold which you furnished to Rosenberg on that day in January?

A. I did.

Q. ... Tell me if that is *the sketch* which you prepared.

A. That is *the sketch* that I prepared. (Emphasis added.)

At this point we come to the legal hocus-pocus utilized by the prosecution in presenting the so-called secrets Greenglass is supposed to have transmitted to the Russians. If the reader will glance at the last two exchanges between Cohn and Greenglass, it will be seen that the latter *prepared at the Government's request a purported copy of the sketch he claimed to have given Julius six years earlier.*

It is vital to understand that this "copy" was not one that was made of the original sketch at the time of the alleged crime, but rather during the months Greenglass was lodged on the eleventh floor of the Tombs together with Gold!

As the case proceeded, this "copy" was admitted into evidence as Government Exhibit 2. Later, other "copies" of other alleged sketches given to Gold and Rosenberg were also admitted into evidence as Government Exhibits 6, 7 and 8. In each instance the defense objected to the introduction of such deceptive "corroboration" but was overruled. In an attempt to demonstrate to the jury that such "copies" were not corroboration but merely a self-serving device, the defense asked Greenglass concerning Government Exhibit 2:

Mr. E. H. Bloch: When did you prepare this?

A. During this trial, yesterday.*

Although Kaufman was forced to concede that it did not constitute proper corroboration, nevertheless he admitted it as "chart evidence" on the excuse that it would be enlightening to the jury. However, Bloch pointed to the rule that chart evidence could be explanatory only, and could not be submitted as a true copy for the obvious reason that the jury might tend to accept it as such. To demonstrate this he asked Greenglass point-blank whether the exhibit was a *true copy* of the original alleged sketch. When Greenglass affirmed that it was, Bloch argued again that a true copy of a document cannot be properly admitted under the guise of an explanatory chart. Nevertheless, Kaufman again overruled him and the sketch Greenglass had so carefully prepared with the aid of Harry Gold became *evidence* as far as the jury was concerned.

It did not matter much two weeks later that Julius and Ethel firmly denied receiving any such sketches. Their denials were only verbal, whereas the exhibits before the jury, submitted as *true copies*, appeared real and tangible!

*Record, pp. 439-440.

Very soon we will take up the crucial question of Greenglass's capacity to obtain and transmit the highly complex lens mold he claimed to have delivered in 1945 and to have given to Julius in 1951 without aid or assistance of any kind. This will suffice to give a brief illustration of this in connection with the comparatively simple lens mold:

Q. [Bloch]: You did not even know the details of the lens mold, did you?

A. That is exactly correct.

Q. What? You had to be a scientist to know that right?

A. That is right.*

4. THE ALLEGED TYPING BY JULIUS

In examining this next stage of the Colson investigation, we will deal with the Government's principal reason for sentencing Ethel Rosenberg as well as the principal reason for sentencing her to death — namely, her typing of the descriptions of the two sketches he gave to Julius: (1) the lens mold given in January, 1945, and (2) the Nagasaki atomic bomb given in September, 1945.

For the present, we will deal only with Ethel's typing of the lens mold given in January, 1945. Let us begin with a comment suggested by David on that day he came to see David in jail and agreed to prepare the sketch and description of the lens mold. Here is his testimony concerning Ruth's comment:

[David]: ... And my wife, in passing remarks, said that writing would be bad and would hurt her eyes. I said there was nothing to worry about as long as she retyped the information.

Following this, Greenglass tells how he and Ethel, after a dinner invitation, went to the Rosenberg apartment "a few days" later, and how Ethel happened to meet Julius:

A. My wife had remarked to Ethel that she was tired because she had been typing so much.

Q. [Cohn]: Ethel looked tired?

*Record, p. 628. See also Greenglass' admissions of the essentials of the lens mold under the late cross-examination with "The Russian."

†For David's direct, see Record, pp. 443, 450-451.

A. And Ethel remarked that she was tired between the child and staying up late at night, keeping — typing over notes that Julius had brought her — this was on espionage.

Mr. E. H. Bloch: I move to strike that out [espionage].

The Court: Did she say that [espionage]?

The Witness: She said "in this work." She also stated that she didn't mind it so long as Julius was doing what he wanted to do.

Now let us add Ruth's testimony concerning this incident. The following is from her direct examination:

[Ruth]: Well, Ethel said that she was tired, and I asked her what she had been doing. She said she had been typing; and I asked her if she had found David's notes hard to distinguish. She said no, she was used to his handwriting.*

Now it will be recalled from previous testimony that David's description of the sketch was contained on but *one sheet* of paper. As for its length, we find that it was unusually brief; by actual count no more than a few sentences comprising at most possibly one hundred words.† Moreover, according to David's own testimony, it was quite simple in content, consisting merely of a primitive definition of the letters "A," "B," and "C" which he had indicated on the sketch. In addition, we have seen that Ethel had not the slightest difficulty with the typing of these few sentences, because she was used to David's handwriting. Finally, we have been told that the Rosenbergs had received the information two or three days before, and therefore we may presume that Ethel had been prompt to type it up immediately, since it was the *first* information on the atomic bomb received.

Hence, in the name of logic, why should Ethel need to stay up so "late at night" with such an easy task which could not have taken more than five minutes? And why should she still feel tired and still *look* tired two or three days later, especially when her brother's handwriting presented no difficulty?

With regard to Greenglass' gratuitous use of the word "espionage," it is significant how, upon objection, he quickly changed it to the phrase "in this work." Like Elitcher, he had been over-rehearsed; and like Elitcher, he was so intent on serving the prosecution's interests that he inserted the word "espionage" whenever possible — even when it is ludicrous for Ethel to have said it.

*Record, p. 691. As a minor discrepancy, it will be observed that, whereas David states that Ruth had "remarked" about Ethel's tiredness, in Ruth's testimony it is Ethel who voluntarily discloses the fact.

†Record, pp. 442, 443.

But it is in Greenglass' final remark that the full horror of Ethel's tragic predicament appears most forcibly:

"... She also stated that she didn't mind it [the typing] so long as Julius was doing what he wanted to do."

This statement, even if we take it at face value as true, has only one possible interpretation: That Julius was the prime mover of the conspiracy and that Ethel went along or rather put up with it only because she desired to please her husband, and not because she planned to betray the United States or sought to aid the Soviet Union and the cause of world Communism.

And yet, despite this clear statement made by the *only* witness* accusing Ethel, Judge Kaufman characterized her as a "full-fledged partner in this crime" and found her equally deserving of death. In our analysis of the sentences we will deal more extensively with this point.

5. THE ALLEGED JELLO BOX RECOGNITION DEVICE†

Possibly the most vivid portion of the Greenglass testimony was the alleged Jello box episode. In the petition for a new trial Mr. Bloch subsequently referred to it as "one of the most hair-raising episodes related to the jury." Certainly it was the feature which was most played up by the press and remained the item most remembered by those who read more than the headlines. Needless to say, no newspaper account of the episode ever included the fact that Greenglass' partner in the episode, Harry Gold, was also his bunkmate in the Tombs for almost nine months before trial.

In the anatomy of frame-up we drew special attention to the point that although the mass of perjured testimony consists largely of half-truths, half-lies, distortions of truth, extensions of truth liberally sprinkled with nuances, innuendoes and insinuations, there is nevertheless an unavoidable core of outright collusion during which the testimony is deliberately, in every sense of the word, manufactured. Perhaps nowhere in the Government's case is this manufactured product more concretely illustrated than in the episode of the Jello box.

The first part of the episode, according to the Greenglasses, took place during the early evening of Jan. 5, 1945, at the Rosenberg flat, where, as we have indicated earlier, David and Ruth had been in-

*Since Ruth Greenglass' testimony was that of David's wife, to all intents and purposes their testimony may be considered as that of one person.

†For David's direct, see pp. 443-450; for Ruth's direct, see pp. 686-690.

vited for dinner two or three days before. In Chapter 5, on the Rosenbergs, it will be recalled that they had been happy to see David on furlough and like other members of the family had asked him and Ruth over to the house. Thus we have an innocent foundation of a normal family visit upon which was subsequently built this cloak-and-dagger meeting of plotting conspirators.

Arriving at the Monroe Street flat, David and Ruth were introduced to an old friend of the Rosenbergs, a Mrs. Ann Sidorovich who had dropped in for an afternoon chat with Ethel. According to the Greenglass testimony, after about a half hour of conversation which was entirely social, Mrs. Sidorovich departed and Ethel prepared to serve dinner.

So far, then, we observe that everything is still normal and quite prosaic. The husband of Mrs. Sidorovich, Michael, also an engineer, had been a high school chum of Julius. The two couples were very close; in fact, the Sidoroviches had once resided at the same address. In the record, we can see the undisputed evidence of their frequent visits with nothing of any incriminating nature attached to them.

However, as soon as Mrs. Sidorovich had gone and the Rosenbergs were left alone with the Greenglasses (according to their testimony), the conspiratorial part of the evening began. In other words, with Mrs. Sidorovich no longer a possible witness to disprove the Greenglasses' testimony — only then are we told that Julius divulged her role as a fellow-conspirator and the reason for her presence that evening. Here is the gist of the Greenglasses' further testimony:

That in a few months Ruth was to take up residence with her husband in Albuquerque. That Mrs. Sidorovich would probably be the courier sent out to receive such further information as David might have ready to deliver. That arrangements would be made for the two women to meet in a movie theater in Denver where they would sit together and exchange purses, with Ruth's purse containing the secret information.

That another plan to meet in Albuquerque was discussed, and here David had suggested to Julius that the best possible rendezvous would be in front of a certain Safeway store.

That when Julius mentioned the possibility that someone other than Mrs. Sidorovich might be the courier, Ruth had asked how would they be able to identify the substitute.

That it was at this point that Julius proposed the Jello box recognition device, which, according to the Greenglasses' further testimony, was arranged as follows:

That Julius had removed the instructions side of a Jello box and

that he had cut it into two irregular halves, one half to retain until the day the substitute was to be held in abeyance until Mexico.

Such, then, was the alleged arrangement about January 5 concerning the Jello box. Our analysis of the following chronological events that ensued, according to the testimony:

1. About January 20 David's furlough turned to Los Alamos.
2. In the first week of February, according to Julius, he visited her at her flat to give her the meeting in front of the Safeway store in April or early in May.
3. On February 28 Ruth left New York to work in Albuquerque.
4. On April 18 Ruth suffered a miscarriage of that fact by letter.
5. Whereupon Ethel, we are told "a member of the family" would be out on the fourth Saturday in May.
6. Obeying these instructions, Ruth appeared on both these dates (once with David).
7. On June 3, however, we are told that she appeared at the Greenglass apartment with the Jello box half, and, with the idea that David gave Gold some additional material.

Right at the outset of Ruth's direct testimony with Ann Sidorovich there is a sharp illogic of Julius' alleged instruction spent an hour conversation before Mrs. Sidorovich consisted of:

"... Just the usual pleasantries and [Michael Rosenberg, then two years of age] things."

*The meeting with Gold will be discussed in

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detail in the next chapter.

Then, after Mrs. Sidorovich's departure, we are told further that:

[Ruth]: Julius Rosenberg said that he had Ann Sidorovich come to his apartment just so that we would be able to recognize her and she know us when she came out to us to get information to bring back to him, and he spoke at first of tentative plans, that Ann Sidorovich would come to meet me in a theatre in Denver where we would exchange purses. . . .

Now let us turn to a page in the record just previous to the above where we find this exchange:

Q. [Kilsheimer]: Had you met Ann Sidorovich prior to that evening?

A. [Ruth]: Yes.*

Why, if the two women had *previously* met each other, was it necessary for Julius to arrange this mutual inspection meeting? As we have seen, Ruth was not to leave town for almost two months. All Julius needed to do was to ask her if she could recognize Mrs. Sidorovich, and vice versa. If not, only then would a face-to-face meeting be necessary.

On the other hand, if Julius was so uncertain that Ann Sidorovich would be the courier,† why would he do what is absolutely forbidden in espionage? Why would he unnecessarily expose her to the Greenglasses and vice versa? Or, to pursue the point to its final absurdity, if he could think up the Jello box recognition device for Mrs. Sidorovich's substitute, why didn't he simply arrange the same device for her? In this way, he could easily have avoided revealing her identity — and that of the Greenglasses — until he was certain she would be the courier.

And if we want to believe Julius defied all logic and nevertheless arranged the meeting, then why the avoidance of all conspiratorial conversation until *after* Mrs. Sidorovich had gone? Since everything had been exposed anyway, why couldn't the details of the tentative plan of the two women exchanging purses in the Denver movie be thoroughly ironed out by them directly? In short, why did everything conspiratorial take place in Ann Sidorovich's *absence*?

For a very simple reason: If the Greenglasses had included Mrs. Sidorovich in the actual arrangements, then the defense would be in a position to call her as a witness to deny it! But since she was not present, her testimony would have no bearing. Which explains why she was not called as a defense witness.

*Record, p. 687.

†Record, p. 689.

On this point, it is important to note that the prosecution thwarted any such possible step by announcing both Mr. and Mrs. Sidorovich on its list of Government witnesses. Thus the defense could be made to believe erroneously that even these good friends of the Rosenbergs had been pressured into testifying against them. But, as we know, Mrs. Sidorovich was never called to corroborate the Greenglass testimony.

Whichever way one examines the Greenglass testimony, it falls apart. Why was the cloak-and-dagger meeting in the Denver movie brought up at all by Julius if it was to be so promptly discarded? Why all these spy-thriller precautions involving Ruth's traveling all the way to Denver, when only a moment later the Safeway rendezvous right in the heart of Albuquerque becomes perfectly safe? Why doesn't Julius, the so-called spy-master, who has so painstakingly worked out the purse exchange, insist on the same method in an Albuquerque movie house? Why does the veteran so quickly yield to the amateur when David suggests the Safeway store? And why is it that, when the alleged rendezvous between Gold and Greenglass finally does take place, it is under the most commonplace circumstances — in the latter's own Albuquerque apartment with Gold arriving with Greenglass' real name and address?

Which brings us to the ultimate in all this plethora of nonsense: *Why was the Jello box recognition device necessary at all?* Why not simply a password? If we are asked to believe in the authenticity of Gold, Bentley and Dr. Fuchs as Soviet spies, then why was the safe and customary procedure of passwords consistently employed to them not also followed by Julius? In Gold's first alleged rendezvous with Brothman, there was merely the password of bringing regards from "Helen" (Bentley), and asking about Brothman's wife and children. In Gold's first alleged rendezvous with Dr. Fuchs there was no matching of two halves of a Jello box or any other piece of paper, but a password which served as the principal means of recognition. And in Julius' alleged instructions to Greenglass concerning flight through Mexico, which we will examine later, again a password and counter-password served as the means of identification between Greenglass and the representative of the Soviet Embassy in Mexico City. In fact, as we will soon see, when Gold is sent by Yakovlev to meet Greenglass, he is provided not only with a password, but also with the latter's name and address, thus rendering the Jello box hocus-pocus completely unnecessary!

Finally, the reasonable mind must ask itself, why would Julius need to send Mrs. Sidorovich or any courier when Ruth was avail-

able? If she had acted efficiently as a courier on her November trip, why couldn't she simply bring further information directly to Julius in New York whenever David would have it ready? If she was capable of going to Denver to exchange purses with Mrs. Sidorovich, why couldn't she just as well bring the material to Ethel? However, this simple, safe and sane method would have completely eliminated the Jello box and Gold's visit to Albuquerque from the Greenglass story, and thereby removed from the Government's case its "necessary link."

Throughout Ruth's testimony describing the events following the Jello box arrangement, we find additional assaults on our credulity. Let us take Julius' alleged visit in the first week of February to give her the specific dates of the rendezvous at the Safeway store:

[Ruth]: Julius told me that in April, the last week in April and the first week in May, I was to go to the store, the Safeway Store that had been designated, and someone would meet me there.*

In the first place, how strange it is that Julius should have hurried to arrange a meeting between the Greenglasses and Mrs. Sidorovich on the 5th of January when the very earliest date of the Albuquerque rendezvous comes up at the end of April, almost four months later! Second, it will be observed that no day of the week or time of the day is specified in Ruth's instructions. Hence, if we are to believe her testimony, we must visualize Ruth walking up and down in front of the Safeway store all day long and every day of the week for two weeks! To repair this flaw, Kilsheimer subsequently inserts this bit of legerdemain:

Q. [Kilsheimer]: *You said that back in New York, Julius Rosenberg had told you that someone would meet you, either on the last Saturday in April or the first Saturday in May; is that correct?*

A. [Ruth]: Yes.† (Emphasis added.)

But the record discloses plainly that Ruth *never* mentioned any Saturday previous to this cue. What is clearly evident, therefore, is that Ruth's testimony was derived from rehearsal and not from truthful memory. Subsequently, she testifies about her letter to Ethel concerning her miscarriage in mid-April and about Ethel's reply containing veiled instructions that "a member of the family" would come to visit her on the third or fourth Saturday in May.

*Record, p. 694.

†Record, pp. 694-695.

It is needless to point out that no such letter was sent, and here again it is significant how a full sinister meaning. Because, in Ruth's cross-examination brought out that while she was in Albuquerque regularly with Ethel, who would write her in her mother.

Thus it was entirely natural for Ruth to inform her miscarriage through Ethel, just as it was natural for her (as Ruth admits), of her sympathy about her illness to visualize one prosecutor or another, in an effort to case against Ethel, saying to one of his colleagues: "I have never corresponded with Ethel, and then ask her to write about the rendezvous in some way or another, it is important that she try to recall this."*

Another improbability in Ruth's testimony she claims to have gone to the Safeway store on the third day in May at about 1:30 in the afternoon. But Ruth adds that on the second occasion "my husband appeared." (Note: As indicated earlier, on both these occasions he appeared.)

Hence, we are asked to believe that the courier Harry Gold — was to meet the Greenglasses in broad daylight at a busy super-market, and *there* match their Jello box.

In the next chapter on Gold we will discuss his "extraordinary measures" of security and surveillance at Alamos personnel by undercover agents in surveillance at Albuquerque.† Bearing this in mind and that Gold was in uniform, let us try to reconstruct this fantasy of the Safeway store:

What does the courier do first? How does he identify the Greenglasses from all other shopping soldiers and their photo? If so, again there is no need for the courier to have a password for his own identification. Yes, but the courier has been told to trust *only* that person who can display the Jello box which matches their own. Well, let us

*In his book, describing the collaboration between the courier and government witnesses such as himself, Harvey Matusow, perjured, states:

"Preparing my testimony was not an easy task for me. We both knew that I had to supply stories... I had to make the marks and events and making them sound proper!" Matusow, *False Witness*, Cameron & Kahn, New York, 1954.

†Record, p. 987.

produced in evidence, truth was given a name, it is clearly she corresponded on behalf of David's

the family of her for Ethel to write news. We can read to build a better "Find out if Ruth recall if Ethel ever ther. Tell her it's

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chance and asks: "Corporal Greenglass?" What then? Does Greenglass nod and ask Ruth to take from her wallet her Jello box half and see if it fits Gold's half, right then and there on the sidewalk?

Let the reader imagine himself one of G-2's counter-intelligence men in Albuquerque that wartime Saturday afternoon. He sees a soldier employed at the Los Alamos Atomic Project furtively matching a cut piece of cardboard with another piece held by a suspicious looking stranger. Or he sees them walk off together and attempt to do it where they won't be seen. Would he not be just a trifle suspicious?

And let us not forget that Greenglass *knows* all about the presence of such undercover men. How can he be sure that this stranger is not one of them *before* he shows the matching Jello box half? In this case, let us say he takes no chances and asks the stranger over to his apartment and the Jello box halves are safely matched there. Very well, but if they do this, *then why the prearranged meeting in front of the Safeway store in the first place?*

In the courtroom the entire fraud of this Jello box tale was given the same illusion of reality as Greenglass' "eleventh floor" copies of Government Exhibits 2, 6, 7 and 8. With *nothing* but the word of the Greenglasses that they had received their half of the Jello box from Julius Rosenberg, the prosecution strove to support their testimony by going through the pious ceremony of introducing a *sample* Jello box into evidence. And, needless to say, despite defense objections, Kaufman admitted it into evidence as Government Exhibit 4. Whereupon Greenglass was handed a pair of scissors by Roy Cohn and told to cut the sample Jello box side into two halves as Julius had allegedly done.* The half he allegedly received was designated Exhibit 4A, and the half allegedly last seen in Julius' possession became 4B. In other words, the Greenglasses' testimony concerning Julius' arrangement of the Jello box device was buttressed *solely* by the Greenglasses — one of them a prisoner still hoping to receive a suspended sentence, the other his wife, promised her complete freedom.

*It is perhaps of minor significance, but it should be noted that if Julius had really been a veteran spy, he would not have used scissors to *cut* the box, but rather would have *torn* it by hand to guard against duplication. The matching half of a cut piece of cardboard can easily be duplicated by holding another Jello box side against it and cutting carefully around the curves; whereas a roughly torn piece would be impossible to duplicate. It is in such instances that one can detect the over-zealous hand of the amateur Harry Gold in gilding the lily.

What had happened to the prosecution witness Ann Sidorovich? Nothing! The jury, thoroughly bamboozled as it gaped wide-eyed at the Jello box cutting ceremony, had long since forgotten that she had been announced to appear. She had served the prosecution's purpose. "Sidorovich" was a fine Russian-sounding name to include in the conspiracy. What had happened to Julius' alleged plan for the exchange of purses in the Denver movie? Nothing! It had served to heighten the melodramatic effect, and, as J. Edgar Hoover has written about the phenomenon, people tend to believe bizarre melodrama rather than prosaic truth.* What had happened to the Safeway store rendezvous? Nothing! But it left some more intriguing detail to pile up in the minds of the jury, and further involved Ethel as a spy correspondent.

There was one amusing incident regarding the Jello box testimony which really sums it up with ironical justice for the fraud it was.

In cross-examination, David was asked whether or not he had ever read the wording of the instructions or observed the flavor or recipe marked on the Jello box, since this would be a logical precaution, *i.e.*, not only to make certain that the two halves matched exactly but also that the wording of the printed matter was in proper order. In cross-examination, both David and Ruth admitted that they had never paid any attention to the wording or the flavor.† During David Greenglass' cross-examination, Mr. Bloch asked him to look at the sample box he was holding and to read the flavor aloud. . . .

"What is the flavor of Government Exhibit 4?" Bloch asked casually.

"Raspberry," Greenglass read from the label.

"Is it imitation raspberry?" asked Bloch, still casually.

"Imitation raspberry," Greenglass replied, reading the label more exactly.

*J. Edgar Hoover, *Persons in Hiding*, Little, Brown & Co., Boston, 1938. In writing about one Gaston B. Means — a former important FBI official — whom Mr. Hoover describes as "the greatest fakir of all times," we are given this insight into the success of Mr. Means' "grotesque" and " concocted" stories:

"He played upon the love for melodrama which exists in almost everyone.

"... Means was sufficiently canny to realize that a plausible story might easily be checked; his task therefore was to make his adventures so unbelievably melodramatic that their very outrageousness made them seem overwhelmingly sane."

†Record, pp. 633, 646 (David), and pp. 770-773 (Ruth).

At this point Judge Kaufman became visibly irritated and accused Mr. Bloch of indulging in "attempted humor."*

It would seem, however, that Judge Kaufman should have rather directed his remarks toward Roy Cohn. After all, it was he who had submitted the sample Jello box, and, since the Greenglasses could not recall the flavor, the choice of that particular box, "imitation raspberry," must have been his, wittingly or unwittingly.

ii

*"I am in blood, stepp'd in so far,
That should I wade no more,
Returning were as tedious as to go o'er."*
— Macbeth

In Chapter 6 on David Greenglass, explaining the process of his self-entrapment, we quoted various passages from his confidential handwritten statement to Rogge. As already indicated, this statement came to light together with the other Rogge file memos almost two years after the trial and became officially known as the "Newly Discovered Evidence." In it, Greenglass apparently informed Rogge what he had "confessed" to the FBI during his first twelve-hour interrogation.

At the trial he insisted that he had withheld nothing that was substantial during this prolonged interrogation. However, his own report to Rogge reveals this to be utterly false. For it not only fails to mention the most important secret he claims to have delivered to Julius — the cross-section of the Nagasaki atomic bomb — but there is not a single reference to the Jello box episode as it later involved the Rosenbergs!

In other words, Greenglass' own confidential report proves conclusively not only that he lied on the witness stand about what he had told the FBI, but that the entire testimony we have just analyzed was manufactured in the period following his arrest.

One cannot even argue that perhaps the FBI did not know about the Jello box arrangement, because when they interrogated Greenglass they had already been briefed by Gold about his alleged part in it for three weeks. Therefore if we are to believe Gold's testimony at the trial, namely, that he visited Greenglass with the prearranged greeting that "Julius" had sent him, then the FBI would certainly

•Record, p. 633.

have insisted that Greenglass tell them a box episode in the Rosenberg apartment. Here is Greenglass' testimony under cr

A. *I did. . . I just told them the s*
phesis added.)

Now let us examine his report to Rogen. The truth this testimony was. Here is that part that developed into the Jello box episode.

"Also, I didn't know who sent Gold

If the episode of the Jello box had so vividly described to the jury, is it conceivable as a Jello box could have been nine months before Greenglass' testimony? Furthermore, Greenglass not only described how he was told by Cohn to cut it "just as he did that night" of January 5, 1945. If Greenglass is so uncertain about it being "torn or cut" then certain it was *cut* nine months later on 1

But most significant is Greenglass' sail piece of card in any manner whatsoever.

Nor can it be argued that David was t
in-law, because this same report to Rogg
graph that he had "made sure to t
had first involved him in the conspiracy

In addition, there is another paragraph in Julius' arrangement of a rendezvous with a woman who later evolved into a "Russian" at the time, according to Greenglass, dealt explicitly with the fact that it was especially damaging to Julius. If Greenglass had avoided implicating him, it is hardly likely that he would have introduced so damning an item about which Greenglass could possibly have had any knowledge.

Finally, we have just seen Greenglass' formed the FBI that first night about his Jello box incident." And when we con:

•See Appendix 2.

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FBI that it, was Julius who had brought Ruth into the conspiracy, plus the prior knowledge they possessed about Gold's part in the Jello box incident — it is impossible that they would not have questioned *where* and *how* he obtained his half of the Jello box, and *who* had sent Gold to him.
In other words, if we are to believe the Greenglass testimony about the Jello box as it concerned the Rosenbergs, we are forced to believe in the paradox that the FBI would have remained content with a full story of the conspiracy (allegedly told just as it happened), but one which lacked the two most important events of that conspiracy!
(Note: The other omitted event, which we will take up in a separate chapter, is the purported delivery of the Nagasaki atom bomb material.)

6. THE ALLEGED MEETING WITH "THE RUSSIAN"*

The grand strategy of the prosecution at the Rosenberg trial was to prove the existence of a chain of guilt. It was for this reason that the Jello box episode had to be invented. The links of this chain were to be: (1) Rosenberg connected with the Russian official, Yakovlev; (2) Yakovlev with Gold; (3) Gold with Greenglass; and finally, completing the chain, (4) Greenglass with Rosenberg.
However, although the prosecution had indicted Yakovlev in absentia, and although Gold was ready to testify about *his* meetings with that official, the only evidence it could present concerning any link between Julius and Yakovlev was through the *inference* that the Jello box half subsequently given Gold was originally delivered to Yakovlev by Rosenberg.
Evidently the prosecution was worried that its inferential link might not be accepted as proof, and therefore a more convincing link had to be provided, even though this was also in the realm of circumstantial evidence. To put it another way, since the prosecution was unable to produce any testimony showing a link between Rosenberg and Yakovlev, a "Russian" had to be fabricated.
This was accomplished by simply having Greenglass create a "Russian" out of a "man." How do we know that this embroidery took place? By comparing Greenglass' confidential report to Rogge, written almost immediately after his arrest, with his trial testimony nine months later. As indicated earlier, this report contains a paragraph concerning a conspiratorial rendezvous which allegedly took place during Greenglass' furlough in New York in January of 1945. Here is how this paragraph begins:

*For David's direct, Record, pp. 452-454; cross-examination, pp. 651-653.

"I then mentioned a meeting with a *man* who I didn't know, arranged by Julius.
". . . I talked to *the man* but I could recall very little about what we spoke." (Emphasis added.)

Presently we will examine this paragraph in its full context, but here, in its *only* references to this unidentified man, we see not the slightest hint that he was a Russian. Now let us turn to Greenglass' accusations at the trial which were categorically denied by Julius Rosenberg. These began with the allegation that, on that same evening of the Jello box arrangement, Julius had said that he would like Greenglass "to meet somebody" who wanted additional information about the high explosive lenses.

Q. [Cohn]: Did he tell you who this person he wanted you to meet was?
A. [Greenglass]: He said it was a *Russian* he wanted me to meet. (Emphasis added.)

And now Greenglass goes into the following detail:
That Julius had arranged the rendezvous for 11:30 o'clock a few nights later.
That on the designated night (about January 10), Greenglass had borrowed his father-in-law's car and had driven up First Avenue to somewhere between 42nd and 59th Streets. That he had parked one block beyond a lighted saloon.
That Julius had met him there and said, "I'll be right back." And that Julius had returned presently and had introduced him to a man by a first name which Greenglass did not recall.
That the man got into the car and drove off with Greenglass. And that Julius "remained on the street" until the two returned some twenty to twenty-five minutes later.
That while David drove about the neighborhood, the man had asked him specific questions as follows:

"He asked about pertinent information, type of H.E. used . . . the formula of the curve on the lens . . . and the means of detonation."

That in reply to these inquiries Greenglass was unable to give any "positive answer," principally because he "had no direct knowledge" of the information wanted.
That after about twenty or twenty-five minutes Greenglass drove back to the corner and "the Russian" got out.
That Julius had said, "Go home now. I will stay with him."

That the two of them (Julius and "the Russian") went off together apparently "to have something to eat."

And that finally Greenglass drove home to tell Ruth where he had been.

Under cross-examination Greenglass added the following: That a considerable time after his initial interrogation by the FBI they had shown him more than two dozen photographs of various persons. That although "a lot of people" resembled the man he had met that night, he had been unable to identify any particular photo. That the man had a hat on and wore an overcoat, but this was *all* he could recall or describe.

Pressed on this point, Greenglass explained this inability as follows: (1) That it was a dark night; (2) that there was no light in the car; (3) that he was too busy driving, and (4) that he could see only the man's profile.

It is plain that Greenglass' entire testimony on this point is suspiciously vague and devoid of genuine substance. Despite being with the man twenty to twenty-five minutes, he cannot even furnish an approximate description; not even that the Russian was young or old, dark or fair, thin or stout, tall or short. In fact, we get nothing but a coat and a hat!

And a most unusual rendezvous! For example, why was Julius left standing alone on a street corner that wintry January night? After all, he was supposed to be the spy-master. It was he who had arranged the meeting. It was he who had apparently delivered to "the Russian" the sketch of the lens and Ethel's typed description. It was he who officiously sent Greenglass home, and it was he who went off to dine and talk with "the Russian."

Why, then, could he not also accompany them in the car? There is no logical answer save that the objective was to create a better picture of mystery and intrigue — "to make a better story" as the exposed impostor spy, Thad Mason, did before the Jenner committee.

By Greenglass' own testimony, the meeting was fruitless. He could not answer a single question propounded by "the Russian." Then why did Julius arrange the meeting in the first place? If we are to believe Greenglass' later testimony that Julius had given him a thorough, scientific explanation of the atom bomb, then it follows that Julius could have avoided all the trouble and risk of this abortive meeting by asking the same general questions "the Russian" had asked.

And why all this illogical furtiveness — appearing and then reappearing with the mysterious Russian? Did Julius fear surveillance? If so, why did he not reckon with the possibility that Greenglass had been followed? Allegedly, Greenglass knew it was an illegal

meeting and yet he makes no mention of having taken the slightest precautions in driving to the rendezvous or while driving with "the Russian."

Did it matter to the prosecution that there was no rhyme or reason, logic or common sense about this alleged rendezvous? Evidently not. All that mattered was that Julius had to be linked with a "Russian" somehow. But, as shown earlier, in Greenglass' report, there is no mention of any Russian. Here is the full paragraph in that report:

"I then mentioned a meeting with a man who I didn't know, arranged by Julius. I established the approximate meeting place but no exact date. The place was a car, an Olds owned by my father-in-law, at somewhere above 42nd St. on 1st Ave. in Manhattan. I talked to *the man* but I could recall very little about which we spoke. I thought it might be that he wanted me to think about finding out about H.E. lenses used in experiment tests to determine data on the a-bomb." (Emphasis added.)

In contrast to all the elaborately detailed melodrama in Greenglass' testimony, observe how sparse is this report of the meeting which he claims to have told the FBI about originally. But, above all, can anyone believe that the FBI, ordinarily so hypersensitive about anything Russian, would have neglected to question Greenglass concerning this vital point in twelve hours of grilling?

To expose the extent of Greenglass' perjured testimony, here is another officially acknowledged Rogge memo which reveals that the FBI did apparently ask him if "the man" was a Russian, and that Greenglass had replied *he did not know!* It is a memo that was written the very next morning after Greenglass' interrogation. Rogge's associate, Herbert Fabricant, had come to interview Greenglass in the FBI suite. Here is the last sentence of this memo, typed, or dictated by Mr. Fabricant at 11:30 A.M. on June 16, 1950:

"He [Greenglass] did not know if the man was a Russian and told the FBI that he didn't know."*

In our examination of the Jello box testimony we have postponed analysis of the final incident — the matching of the two halves by Gold and Greenglass. Since we have arrived at that section of the *Columbia Law Review* summary referring to Gold's alleged visit to New Mexico on June 3, 1945, let us now turn to the next chapter for a full analysis of the testimony describing this journey to that "Land of Enchantment."

*See Appendix 1.

16 | All Is Not Gold . . .

*"Wilder and wilder the story became...on and on went the melodrama..."**

ON the morning of March 15 — indeed the Ides of March — the prosecution's third major witness, Harry Gold, took the witness stand. In discussing his manner and appearance with observers at the trial, the author found that the most outstanding reaction was that he looked like a dead man. His manner of delivery was utterly devoid of emotion, his voice cold and meticulous and his testimony had the sound of a mechanical recital as though it were coming from a phonograph record. But it was the expression in his eyes that was the most striking; they were like the eyes of a dead fish.

Some idea of the interest his testimony aroused in the press can be measured by the "star" billing he received the morning after his appearance. Here is the New York *Times* front page headline of March 16, 1951:

"ADMITTED SPY, GOLD IS STAR U. S. WITNESS"

In addition to the usual coverage of the day's proceedings, an entire page was devoted to "Extracts from Testimony Given by Harry Gold at Spy Trial." This was not done in the case of any other witness. The reason for this special interest in Gold was because it was the first time that the full details of his alleged Santa Fe meetings with Dr. Klaus Fuchs were divulged in a public courtroom.

His direct examination was conducted by Saypol's chief assistant, Myles J. Lane, and for the most part can be described as a series of conversations between Gold and Yakovlev. Although many of these conversations concerned Gold's meetings with Dr. Fuchs and in no way implicated the Rosenbergs, nevertheless Judge Kaufman permitted them to be recited in detail on the grounds that Yakovlev had been named in the indictment.

*J. Edgar Hoover, describing the extent of the fabrications of "The Amazing Mr. Means," *op. cit.*

Thus, under the "conspiracy ruling," although Fuchs, Gold and Yakovlev were perfect strangers to the Rosenbergs, their alleged conspiratorial conversations were admitted as evidence.

Let this strategy of the prosecution be understood. Although no testimony was even offered to link Dr. Fuchs and Yakovlev with the defendants, Gold was permitted to dwell at length on his sensational meetings with them. Hence, even if some jurors had found Gold's testimony about his visit to Greenglass unworthy of belief, by so doing they would have had to proclaim themselves as disbelieving the officially endorsed testimony about Dr. Fuchs. In this sense, each and every juror was "on the spot." Either he voted for conviction and for the Fuchs-Yakovlev-Gold-Greenglass-Rosenberg-Sobell "spy ring" as a whole, or he automatically branded himself a "handmaiden" of the Communists.

For reasons that will be apparent, the prosecution wisely avoided questioning Gold on the details of his very first meeting with Dr. Fuchs. Therefore let us turn again to the account of J. Edgar Hoover in the *Reader's Digest*, based "on the confidential files of the FBI."

"On a January afternoon [a windy Saturday] in 1944 two men . . . came face to face for the first time at a street corner on New York City's lower East Side, and the history of the world began to change.

"One man [Gold] carried a pair of gloves and a book with a green binding. The other [Fuchs] held a tennis ball in his left hand. By gloves, book and ball, they were identifying each other in a clandestine meeting planned months before across the Atlantic Ocean by their masters in espionage.

". . . The shorter, chubbier one gave his name as 'Raymond.' Never in all their subsequent meetings would he disclose that his real name was Harry Gold."

Without pausing to comment on this bizarre scene of an international spy carrying a tennis ball on a wintry afternoon in January, let us turn to the official record of Gold's pre-sentencing proceedings when the latter's attorney, John D. M. Hamilton, told how and when his client had first met Dr. Fuchs:

"Early in 1944 [in late February or early March] . . . Semenov then gave Gold the arrangements for meeting an individual whom Semenov identified as Klaus Fuchs."

Since Mr. Hamilton was quoting from the official wording of the indictment based on Gold's "confession" to the FBI, it is rather

curious that Mr. Hoover's account based on this same "confession" should contain such a discrepancy. Attention is directed to it only because so much of Gold's testimony relies upon an uncanny accuracy of dates. While it is possible that Mr. Hoover carelessly pushed back the date to January, Gold's testimony at the Rosenberg trial discloses another discrepancy in time. When he was asked the date of his first meeting with Yakovlev, he replied that he had met him in "March 1944." Later, he repeats this date with the following precision:

[Gold]: I worked with Yakovlev for a period of almost three years. From March of 1944 until late December 1946.

Now he describes two espionage meetings with Yakovlev in June — one in "the middle of June," and the other "late in June" — at both of which he claims to have turned over a "report" and "a package of papers," received from Dr. Fuchs.

However, when we check his indictment again, we find that his very first meeting with Yakovlev was not in March of 1944 but rather in July! Hence the June meetings were impossible.*

All through Gold's testimony the Rosenberg jury was impressed by what seemed to be an astonishing memory for dates, but no one realized that here was what the French would call an "idiot savant." Translated literally, this means a scholarly fool — one who can memorize a series of dates or can learn by rote anything he has been told to remember, but who lacks the intelligence to realize that such testimony becomes open to suspicion when carried too far. In this regard, we recall Gold's recollection of the day and date he claimed to have first met Brothman nine years before, i.e., "September 29, 1941, a Monday night."

7. THE ALLEGED VISIT OF HARRY GOLD†

According to the *Columbia Law Review* summary of Gold's testimony, he visited the Greenglasses in Albuquerque after having previously met with Fuchs in Santa Fe. And it was during this visit that he matched his half of the Jello box side with that of Greenglass.

Let us now examine the testimony of this June, 1945, trip step by step, beginning with Gold's briefing by Yakovlev on May 27, the same Saturday afternoon the Greenglasses were supposed to be looking vainly for the courier in front of the Safeway store.

*For Gold's direct testimony, see Record, pp. 798-848. Compare Record, p. 803, with Item F in Gold's indictment, available at U. S. Courthouse, Philadelphia.

†For Gold's testimony about his June, 1945, trip to New Mexico, see Record, pp. 820-829.

Previous to this briefing, Gold tells us Yakovlev about a prearranged rendezvous with Santa Fe. It will be recalled from our disclosure map that Fuchs was supposed to have given C Santa Fe back in January, 1945, in Cambridge. recalled, according to our analysis of Dr. Fuchs, that no such Cambridge meeting ever took place if we are to continue to believe Gold, it was at Santa Fe that Yakovlev instructed him to take on the Greenglass. Here is Gold's full testimony on this point:

[Gold]: I told Yakovlev that I did not have any additional task. Yakovlev told me that the task was to go to Santa Fe and that I had to do it. He said that a woman would go in place of me but that she was unavailable. He said therefore, he said that I had to go.

I told Yakovlev that it was highly inadvisable to make a very important trip to see Dr. Fuchs without his permission. Yakovlev told me that I didn't understand the extremely important business, that I just had to go. In addition to going to Santa Fe, and he said that was all. I agreed to go.

Exactly how would Yakovlev know that on this particular time was "an extremely important business" that Ruth Greenglass had written down was vital information ready. Hence Yakovlev's way of knowing whether or not any information was at all on Gold's arrival in Albuquerque.

And let us not forget "the Russian's" disclosure of Greenglass back in January. In view of that disclosure, should Yakovlev be so insistent about obtaining critical information from Greenglass, and thereby of obtaining critical information from Dr. Fuchs? Earlier testimony Gold tells us:

"I was having difficulty at this time getting the information."

Suppose Gold just could not manage to see Greenglass? Were there only two couriers in the spy ring — Ann Sidorovich and Harry Gold?

*"At this time," Gold was employed at the Pennsylvania State Penitentiary. How, indeed, was a routine \$50-per-week laborer to take off time from his work for so many long trips to Santa Fe and Albuquerque covering six full days?

had notified for June 2 in false museum marked map of will be further ment in Eng- In any event, ay 27 briefing al mission to nt:

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rom work."* e required to in the entire ve to believe

r Company. ant able to ular one to p. 408.)

that the Russians, allegedly so generous with Julius' espionage expenses, were concerned with saving a courier's railroad fare at the risk of endangering the most valuable secret in world history?

In short, Yakovlev's illogical insistence that Gold undertake this double mission despite the latter's stern warning taxes credulity. And as for Gold's attempt to paint Yakovlev as a stern commissar giving brusque orders, this only increases one's doubts. This convenient procedure — the explaining away of improbabilities by the "built-in justification" — is reminiscent of Elizabeth Bentley's tactics at the Brothman trial. It will be recalled how she tried to explain away the illogic of the Brothman-Gold rendezvous by the flat assertion that it was a "decision of the Communist Party and that [Brothman] must abide by it."*

Another improbability: How is it Yakovlev tells Gold as late as May 27, only two or three days before he must leave for Santa Fe, about the inability of the "woman" (by inference: Ann Sidorovich) to make the trip? Did not the Greenglasses tell us that Julius was doubtful about her on January 5, almost five months earlier? Wasn't this the reason for arranging the Jello box device? Since we must presume that Rosenberg and Yakovlev kept in constant touch, what about the rendezvous at the Safeway store, when Ethel's "member of the family" was to meet the Greenglasses on the third or fourth Saturday in May? Didn't the Rosenbergs arrange this with Yakovlev's knowledge? Who was this "member of the family" replacing Mrs. Sidorovich if it was not Harry Gold? And if it was Mrs. Sidorovich at this late date, then again why the need for the Jello box?

When we search for an explanation to this improbable testimony, we find it, of course, on the "eleventh floor." It was Gold's task to provide support for Greenglass' testimony about Ann Sidorovich by insinuation.

It is interesting to follow the mechanism of this character assassination. First comes the testimony of the Greenglasses, who have never seen any criminal act on the part of Mrs. Sidorovich, but merely relate what Julius had told them about the lady being a courier. Then comes Gold, who simply invents a series of conversations with a minor Russian official. Which Russian official? Any one (what difference?) — but preferably one who has left the country some years ago.† And

*Similar tactics of exposed perjurers such as Paul Crouch have been analyzed by Frank J. Donner in his article "The Informer," *The Nation*, April 10, 1954. See also exposé of Crouch as a proven perjurer, documented by the Alsops in the New York *Herald Tribune*, May 19, 1954.

†The record discloses that Yakovlev sailed back home (incidentally, on the United States Lines) together with wife and children in 1946, or over four years prior to the trial. (Record, pp. 946-947.)

now, during one of these imaginary conversations, Gold needs only to mention that Yakovlev told him about a certain woman courier and lo — another link in the chain has been forged!

ii

Here is Gold's further testimony following his agreement to obey Yakovlev's "order" to undertake the double mission:

[Gold]: Yakovlev then gave me a sheet of paper; it was onion-skin paper, and on it was typed the following: First, the name "Greenglass," just "Greenglass." Then a number "High Street"; all that I can recall about the number is that the last figure — it was a low number and the last figure, the second figure was "0" and the last figure was either 5, 7 or 9; and then underneath that was "Albuquerque, New Mexico."

The last thing that was on the paper was "Recognition signal. I come from Julius." In addition to this, Yakovlev gave me a piece of cardboard, which appeared to have been cut from a packaged food of some sort. It was cut in an odd shape and Yakovlev told me that the man Greenglass, whom I would meet in Albuquerque, would have the matching piece of cardboard. Yakovlev told me that just in case the man Greenglass should not be present when I called in Albuquerque, that his wife would have the information and that she would turn it over to me. Yakovlev gave me an envelope which he said contained \$500., and he told me to give it to Greenglass. Yakovlev told me that I should follow a very devious route on my way to Santa Fe and to Albuquerque. He said that I should first go to Phoenix, Arizona; then to El Paso, and from there to Santa Fe. Yakovlev said that I should do this to minimize any danger of being followed.

The last thing that took place on this last Saturday in May was that Yakovlev and I arranged for two meetings upon my return from the Southwest.

Q. [Kaufman]: Was there any route to be followed from Santa Fe to Albuquerque?

A. [Gold]: He didn't specify, your Honor. There is only one way that I know of to get from there. They are 60 miles apart and there is a bus runs between them.

Let us first examine Gold's artful pretense that he cannot recall the exact address of 209 North High Street. It is almost amusing to see how disingenuously he labors to remember it, as though anyone would expect such a feat after six years from a single, brief visit

to a stranger's address. Observe the play acting as he recalls that the second figure was precisely an "0," and then the floundering with the last figure being a 5, 7 or 9.

But Gold had spent nine months with Greenglass on the eleventh floor of the Tombs! Are we being asked to believe that Greenglass never mentioned his Albuquerque address to Gold? Or that Gold never discussed his visit there with the FBI or the prosecution? Certainly the FBI cannot deny that *they* were aware that Greenglass had lived at 209 North High Street, because the latter's own memo to Rogge confirms this:

"I stated [to the FBI] that I met Gold in N.M. at 209 N. High St., my place."

Concerning the alleged "Recognition signal" — at once we see that these *actual words* were written down together with the password "I come from Julius," and Greenglass' address! What if Yakovlev or Gold were caught with this information in his possession? An Albuquerque address of a soldier employed at the Los Alamos Atomic Project would be bad enough, but we are also asked to believe that a Soviet Vice Consul would be so idiotic as to write down the incriminating words "Recognition signal"!

Furthermore, if Yakovlev had to write down the address, why couldn't he limit it simply to "209 North High St"? Why did he have to make it so specific by adding "Albuquerque, New Mexico"? And if Gold could commit these elementary instructions to memory, why couldn't Yakovlev do the same and thereby avoid carrying such damning evidence on his person?

Concerning the password itself — "I come from Julius" — here, without doubt, is the most improbable item in all this fantastic record.

Why is it that no other accused or self-proclaimed spy-master or courier uses his real name? Yakovlev is "John"; Semenov is "Sam"; Bentley is "Helen"; Golos is "Timmy" and Gold himself is "Raymond" or "Martin" or "Dave from Pittsburgh." Why is it that *only* Julius Rosenberg uses his real name? The answer is obvious. It was Gold's task to link a "Julius" with Yakovlev in order to complete the chain of guilt. If some fictitious name had been used, for example, "Joe," how could the prosecution prove that "Joe" was indeed Julius Rosenberg? To be sure, they might have found a way, but why make it difficult when it was all so easy?

In analyzing this extremely vital point of the Recognition signal, we will see that the record itself exposes the palpable fraud of this Jello box routine. Let us return to the Rosenberg apartment, where

Ruth was supposed to have asked Julius to substitute for Mrs. Sidorovich. Here is reply:

[David]: So Julius said to my wife, "so that you will be able to identify t

And, in contrast, here is Ruth's version of the half of the Jello box side which was retained for the next five months until Gold

[Ruth]: . . . And he said, "This hal another party and he will bear the gre know that I have sent him."*

It will be seen at once that David's version contains no mention of any recognition signal to Julius. It states *only* that the courier will namely, the half of the Jello box side. On version which implies the use of the password Gold by Yakovlev. But why is this password instructions if it was designed to be written Gold in the precise words: "I come from "Greetings"; this is the key word in Ruth the recognition signal is given to Gold, and nor even the synonym "regards," such as password to Brothman: "I bring regards."

While we are on the subject of the testimony of Ethel Bentley, it is interesting to examine testimony of what Julius said, not only normal, colloquial speech but the language reminiscent of that written in the "Letters" other passages of the New Testament ago!† Let anyone study Julius' or Ruthology in their testimony and find the thing resembling:

" . . . and he will bear the greetings that I have sent him."

*Compare Record, p. 446 (David), with p. 68 †"Letters to the Gentiles," Acts, xv:23, 27. See

"Lord, how is it that thou wilt man

"He that receiveth whomsoever I send 22; xiii:20.)

(See also Bentley's embroidery of alleged Russian Gromov, p. 525.)

ow to recognize the courier
David's version of Julius'

"Well, I give you something
the person that does come."

telling how Julius gave her
placed in her wallet and re-
t's arrival in Albuquerque:

f will be brought to you by
etings from me and you will

on of what Julius told Ruth
signal such as "I come from
carry an identifiable article,
the other hand, it is Ruth's
password subsequently given
word not *explicit* in Julius'
titten down and relayed to
Julius"?

th's version — and yet when
ere is no hint of this word,
there was in Gold's alleged
from Helen."

1," the pseudonym of Eliza-
e Ruth's curiously phrased
because it is far from any
age is so archaic that it is
ers to the Gentiles" and in
almost two thousand years
s modern, everyday phrase-
remotest suggestion of any-

from me and you will know

99 (Ruth).

re also:

ifest thyself unto us . . ."

receiveth me . . ." (John, xiv:

ognition signal of Soviet offi-

In Chapter 9, concerning Bentley's testimony at the Brothman trial, we can detect the possible inspiration for this archaic phrasing when she, too, speaks of her "greetings" being given to Brothman by Gold as a means of identification. This was *after* she had become a fervent convert to Catholicism. In a later chapter dealing with Bentley we will see Roy Cohn's boastful article written for the New York *Journal-American* describing how "as a result of working with Miss Bentley and Mr. Gold, there resulted the prosecution . . . of Abraham Brothman." When we add to this admission the many "conferences" Greenglass had with Cohn, we can guess the possible liaison leading to Ruth's unusual choice of speech which she attributed to Julius.

But what concerns us more seriously is not so much the demonstrated fact that the Greenglasses never received a precise password such as "I come from Julius," or "I bring greetings (or regards) from Julius," but rather the subsequent testimony of the Greenglasses and Gold describing the latter's arrival at their Albuquerque apartment. And, as we skip ahead to this portion of their testimony, we will see that on the vital point of what password Gold allegedly used there are three different versions of something each of them should have remembered as clearly as they claimed to remember the details of the Jello box arrangement. First, here is Gold's version of the password:

[Gold]: I said, "I came from Julius." (Record, p. 825.)

And here is David's version of what he heard Gold say:

[David]: He said, "Julius sent me." (Record, p. 457.)

Finally, here is Ruth's version of what she heard:

[Ruth]: He said he bore greetings from Julius. (Record, p. 699.)

Now a password is a password and, when it has been written down as a "Recognition signal," certainly the bearer should remember it accurately, especially one with so phenomenal a memory as Gold, who states that he had memorized it! But even if we wish to disregard the change of tenses ("came" instead of "come"), what is suspicious is the clumsiness of the phrase. Because "I came from Julius" happens to be in the *past tense*, and therefore is as incredible as if he had said to Brothman "I brought regards from Helen" instead of "I bring regards. . . ." In other words, Gold is *narrating* instead of *reporting* what he actually was supposed to have said and thereby gives away that it is a concocted tale!

As for David, whereas we are asked to believe that he can remember

after six years every "A," "B" and "C" designation of a certain one of many lens experiments he happened to be working on in 1945, as well as the cross-section of the Nagasaki atomic bomb, we see that he cannot recall Gold's four monosyllabic words, *save for the name of "Julius"!*

And finally there is Ruth — sticking to her New Testament version, rehearsed so carefully with Kilsheimer, while Cohn rehearsed with Greenglass and Lane rehearsed with Gold. One can readily visualize one or another of these worthies cautioning their witnesses, "Now don't worry about getting too exact on every detail or else it might sound like you all got together. The recognition signal? Well, don't worry about what the others will say. Just say it the way you told me you remembered it — but don't forget the name 'Julius'; that's the important thing."

Is this too unpleasant to accept? Then let us bear in mind the innumerable conferences which Greenglass indifferently admits. And by way of a final answer to the Greenglass-Gold testimony concerning the password, and one that incontrovertibly proves it was perjury, let us also bear in mind Greenglass' handwritten report of what he originally stated to the FBI:

"Also, I didn't know who sent Gold to me."

Returning to the credibility of Gold's testimony, if Yakovlev really gave him such explicit information as Greenglass' name, address and the recognition signal "I come from Julius," then why did Rosenberg need to arrange the Jello box device at all? As we have seen in Mr. Hoover's account of the Fuchs-Gold meeting, there was no piece of card cut in two halves, but only a German-born physicist carrying a tennis ball in the middle of a wartime winter on the lower East Side of New York! A rather unlikely time and place for playing tennis.

Concerning the knowledge attributed to Yakovlev that Ruth would have the information ready for Gold, not only was such knowledge or expectation impossible, but, as the record shows, Ruth did *not* have the information ready and, for that matter, neither did David!

Concerning Gold's description of the "piece of cardboard," notice how carefully he avoids mentioning that it was part of a Jello box, and how he resorts to the dissimulation that it "appeared to be a packaged food of some sort." Why does he do this? Because, in his effort to be oh-so-precise, he would have us believe that he saw only his half of the card at the time Yakovlev gave it to him and that it

did not include the word "Jello." However, according to Ruth Greenglass' testimony, the side which Julius cut up was the "Directions" side (referred to by Ruth as the "instruction side"), and if the reader will glance at any package of Jello he will see that these directions contain the word "Jello" no less than *eight times and on all parts of the card!*

Concerning Gold's testimony about the \$500 given him by Yakovlev, we are later told that it consisted of twenty-five \$20 bills placed in a sealed envelope and that it was sealed when it was delivered to Greenglass. Now let us suppose that Gold had been followed and arrested. (*Note: Yakovlev's alleged instructions were that Gold take "a devious route . . . to minimize any danger of being followed."*) Would not the sealed envelope containing those twenty-five \$20 bills be a somewhat difficult thing to explain? Would not a highly trained spy courier rather keep the bills in his wallet so that it would appear to be his own traveling funds instead of a payment to be delivered to someone?

Concerning the "devious route" Gold was warned to take, obviously this item was designed to beguile the jury by heightening the intrigue, because apparently Gold ignored these instructions entirely! In his testimony there is no further mention of the matter. However, in Mr. Hoover's *Reader's Digest* article, there is this curious explanation:

"On the appointed June day Gold arrived in Santa Fe. He had rejected John's [Yakovlev's] suggestion that he use a circuitous route because he was low, as usual, on funds. . . ."

Here we are asked to believe that Gold contributed the cost of this entire trip to Santa Fe and Albuquerque out of his own pocket on a salary of \$50 per week! Moreover, although Yakovlev was ordering him to spend considerable extra sums in taking this circuitous route, evidently no provision was made to defray these additional costs. But Mr. Hoover has a ready explanation for Gold's extraordinary generosity:

"In promoting the Red cause, he had been almost morbidly self-sacrificial. Denying himself luxuries, spending hard-earned money . . . he gave everything he had, including his honor."

And so we have the paradox of this most obliging spy, whom we have seen testifying at the Brothman trial that he had nothing but scorn for Communism, now giving his all for the "Red cause"! But the paradox contains an inner paradox: Gold, who has always de-

spised Communism, does not even receive one red expense, whereas Greenglass, who was supposedly Communism by the Rosenbergs, receives his \$500.

And what happened to the unused traveling expenses have been put aside for the "woman who was supposed of Gold? Surely one would expect Yakovlev, whom the government was obtaining "very vital" information from, to have made some offer to Gold of at least a few hundred dollars of money. But no, the record contains not a word of such an offer.

Concerning Gold's testimony about Yakovlev's "route," we recall it was to "minimize any danger of being followed." Whereas on the surface this may appear entirely reasonable, the closest study exposes it as specious. If Gold, taking a train to Santa Fe, was in danger of being followed to Chicago — when he was unavoidable — and thence to Santa Fe, why was he not as readily followed if he took a train to Phoenix, El Paso and Santa Fe? In short, each time Gold changed his route, a man shadowing him could simply do the same. If Gold decided not to follow the invented instructions, Mr. Hoover felt so sore put to present the explanation.

Gold's final statement — that taking the bus to Albuquerque was the only way he knew to reach Santa Fe — is further proof that Gold never made such a trip. To this writer's on-the-spot inquiry, while the city of Albuquerque is a short distance from the railroad station for passengers, it is connected by a bus line only eighteen miles away. (The train then goes on to Santa Fe.) Since, according to Mr. Hoover's *Digest* article, Gold decided to have taken this trip by train, it follows that he would not have taken that connecting bus. Hence, Gold would know it was impossible to reach Albuquerque by train via Lamy.

And therefore, when he stated to Judge Kaufman that there was no other transportation between the two towns, it was a statement of ignorance which we may take as proof that Gold never took a train to meet Fuchs in Santa Fe, nor did he meet Greenglass in Albuquerque!

One might add that just as the alleged plan to kidnap the Rosenbergs in the Denver movie was conveniently disguised as a "devious route." And quite naturally so, because of introducing all this cloak-and-dagger material into the trial, enough highly spiced hors d'oeuvres so that the jury would not come too critical of the rest of the menu.

iii

*"These lies are like the father that begets them:
gross as a mountain, open, palpable."*

— Henry IV (Part I)

In our examination of the crazy-quilt nature of the Government's case, we now come to the most serious assault on credulity in all of Gold's fantastic claims. In order to give substance to the testimony of the Greenglasses that Gold had indeed visited them in Albuquerque, it was crucial to the prosecution that some concrete evidence of his presence there be presented. If this could be achieved in the form of a tangible Government Exhibit, not only would it tend to prove "the necessary link" between Yakovlev and Greenglass, but it would give firm foundation to Gold's claim that he had met Dr. Fuchs in nearby Santa Fe during this same trip.

We have seen to what lengths Mr. Hoover went in the effort to prove Gold's presence in Santa Fe by means of the fictitious museum map. Now we will see the prosecution's efforts to prove Gold's presence in Albuquerque by means of a fictitious hotel registration card, which we have previously likened to that "small white card" so conveniently discovered in Gold's cellar closet.

Continuing with Gold's testimony concerning his double mission, he first described his rendezvous with Dr. Fuchs in Santa Fe on June 2, 1945. Now he goes on to relate how he took the bus down to Albuquerque late that same Saturday afternoon:

[Gold]: I arrived in Albuquerque early in the evening of the 2nd of June, and about 8:30 that night went — about 8:00 or 8:30, yes, I went to the designated address on High Street. There I was met by a tall elderly white-haired and somewhat stooped man. I inquired about the Greenglasses and he told me that they were out for the evening but he thought they would be in early on Sunday morning.

Q. [Lane]: Then what did you do?

A. Then I returned to downtown Albuquerque.

Q. Did you register in any hotel when you were in Albuquerque on this occasion?

A. I stayed that night [Saturday] — I finally managed to obtain a room in a hallway of a rooming house and then on Sunday morning I registered at the Hotel Hilton.

Q. Now, did you register under your own name?

A. Yes, I did.

Q. What name did you use?

A. Harry Gold.

Q. Now what did you do on Sunday? That is June 3, 1945?

A. On Sunday about 8:30 [A.M.] I went again to the High Street address. (Emphasis added.)

In his subsequent testimony, Gold describes his visit to the Greenglasses and the manner in which they matched their Jello box halves. But here it is necessary to pause and analyze the two crucial points just emphasized:

1. That Gold registered needlessly at the Hotel Hilton on Sunday morning, after having spent Saturday night in the rooming house, and with no intention of remaining in town over Sunday night.*

2. That Gold registered needlessly and dangerously under his true name.

With regard to the first point, it may be stated that there was absolutely no logical reason for Gold to register except the one we have indicated, namely, that the prosecution had no documentary evidence to corroborate Gold's claims, and that it felt it necessary to produce a hotel registration card in order to prove his presence in Albuquerque.

To demonstrate this, let us review the reasons why Gold's conduct in registering is completely incredible. In the first place, we recall his testimony that he had arranged for a specific meeting with Yakovlev on his "return from the Southwest." Somewhat later he explains that this prearranged meeting called for his return to New York at the specific time of 10 P.M. on the evening of June 5, a Tuesday.† Now, this meeting was a most important one because Gold tells that it was then that he turned over to Yakovlev the atomic secrets from both Fuchs and Greenglass.

But in order to effect this delivery on schedule, Gold would have to take one of the three fast trains out of Albuquerque, the last of which left shortly after the noon hour. Therefore, not only did Gold have precious little time to spare that Sunday forenoon, but any delay such as remaining another night in Albuquerque would have

*According to his testimony, Gold left for New York "immediately" after receiving the information from the Greenglasses that same Sunday afternoon.

†Record, p. 829.

made it *impossible* for him to keep his precisely timed rendezvous in New York!*

In the second place, Gold had no reason to anticipate that he would meet with any delay at the Greenglasses to warrant his paying for a room at the Hotel Hilton before he had seen them. We recall from his own testimony that Yakovlev had told him "that just in case Greenglass should not be present . . . that his wife would have the information" ready.

Therefore, if Gold expected to receive the information promptly, why didn't he simply go to the Greenglass apartment and pick it up? It was still very early Sunday morning, only 8:30 A.M., and he had been told the night before that the Greenglasses were out only for the evening. From his testimony, we see that he had a full night's rest at the rooming house. Why, then, didn't he do first things first? Why didn't he first go to the Greenglasses and only *then* — if it turned out to be necessary to remain another night, and if he thought this to be more important than meeting Yakovlev at the prearranged time — take a room either at the same rooming house or at a hotel?

In fact, if Gold was at all concerned that he might have to stay another night, all he had to do was tell the rooming house owner that he would be back. And when, in addition, we recall Mr. Hoover's statement that Gold was "low, as usual, on funds" and was accustomed to "denying himself luxuries," it is hardly likely that he would even have considered the Hotel Hilton, the most expensive one in Albuquerque.

Finally, if we are to believe Gold's testimony, there must have been ever present in his mind the additional risk he was taking by registering at such a conspicuous hotel. He, himself, has told us how he warned Yakovlev that "it was inadvisable to endanger the very important trip to see Dr. Fuchs with this additional task." And in his testimony about his meeting with Dr. Fuchs, Gold tells us that he had received "a bunch of papers" containing atomic information. In addition, he was carrying with him the sealed envelope containing the \$500 for Greenglass.

If, therefore, Gold was indeed a highly trained spy for more than ten years by this date, and if he was carrying all this precarious material on his person, would he not be anxious to get out of town as quickly as possible? Is it conceivable that he would undertake the

slightest additional risk, especially in the Hotel Hilton that Sunday?

Let it be emphasized that Albuquerque, situated near the most heavily guarded city in the United States. This was confirmed by Lansdale, a prosecution witness:

A. My assignment was while in the general staff organization to be in charge of the security of the atom bomb project. . . . We took extraordinary measures to establish censorship of mail, telephone conversations. We placed guards around the town.* (Emphasis added.)

If Gold were a highly trained spy, the town was literally crawling with spies. Disguised as Army personnel, taxi drivers, waiters, shop clerks, etc. As for Gold's alleged espionage work, here is an example:

[Gold]: . . . We had a system which would react very promptly in case there was a leak. This system provided for not only a check on any before I came to see Yakovlev, but also a suspect any while we were actually working. If there should be any suspicious activity, we had parted, around either of us. (Emphasis in the original.)

And again, in describing one of his meetings:

" . . . But before I went there I was fully for about an hour, to make sure of surveillance.

" . . . My replacement Soviet agent where he could observe me, to get anything suspicious."†

And finally, here is Gold's testimony revealing his true identity or address:

*This was proved by this writer's interview with the Albuquerque dispatcher of the Santa Fe Railroad. When we come to the testimony of Gold's alleged departure, we will present the Santa Fe Railroad timetable of June, 1945.

*Record, pp. 881, 887.

†Record, p. 818.

‡Record, p. 832.

dangerous as registering
and in his own name?
s an Army town in war-
ded secret area in the
trial by Colonel John

ng as a member of the
le for all phases of the

for its security. . . . We
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over agents in all the

d have known that the
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ous with Yakovlev:

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h for any symptom of

-year practice of never
essarily:

"In all cases when I introduced myself, I used a false name and in all cases I never indicated my true place of residence."*

Now that we have this self-portrait of a most cautious and prudent spy, let us reconstruct the scene of Gold walking into the largest hotel in Albuquerque that Sunday morning with not a piece of baggage and offering his real name and true place of residence.†

First, it is sometime before 8:30 in the morning, a time when a stranger in town would be especially noticed and remembered by the desk clerk, bell captain (either one of whom could be a C.I.D. man) or, for that matter, the hotel detective. And what would they see? According to descriptions previously cited: "a fat, little man . . . with a pouting face . . . withdrawn, mousey . . . with dark, almost swarthy skin, receding forehead and anxious eyes," and with "a peculiar slouch."

Let us then visualize this conspicuous figure waddling across the empty lobby, wearing a suit considerably crumpled from his four-day train and bus trip. Let us see him ask for a room in Eastern accents and then register "Harry Gold" with a Philadelphia address. And let us see the exchange of looks between bell captain and desk clerk when the stranger proves to have no baggage. And finally, let us visualize the result of the chambermaid's report on the next morning that the stranger did not even sleep over.

In fact, there is not the slightest suggestion in the testimony that Gold even went up to the hotel room! Despite Lane's exacting examination — showing precisely how many minutes his morning visit to the Greenglasses comprised, and precisely how many minutes he spent with the Greenglasses in the afternoon — somehow the usually garrulous Gold never even mentions returning to the hotel to check out. Indeed, since he had no baggage, what was there to check out?

To sum up, it would seem almost as though Gold had been intent on leaving not only a trail of suspicion behind but exactly where he could be reached and checked on. Which brings us to our second point and the question:

Why did Gold, if he insisted on taking all these unnecessary risks, increase them immeasurably by registering his true name and ad-

*Record, p. 815.

†"He had registered under his right name, without baggage. . . ." (See Pilat, *op. cit.*, p. 4.) Since Mr. Pilat's preface reads that U. S. Attorney Saypol was his expert consultant, we will not contest the curious fact that Gold traveled six days without even a change of linen!

Note: Concerning Gold's address, further analysis of this point will be discussed later.

dress? For the very simple reason that the prosecution needed such a registration card to submit as evidence that Gold was indeed the person who had registered at the Hotel Hilton on that date.

And this is why the card had to bear Gold's true name and not a fictitious one. Because a card with any other name, for example "Raymond Smith" or "Joe Doakes," would have been immediately challenged. With so much depending upon it, the defense would be justified in demanding proof that the signature was truly that of Gold, and not just anyone's signature. In this event, the prosecution would have been forced to bring in handwriting experts to furnish such proof, and, in turn, the defense might have seen fit to bring in its experts.

Hence, two serious risks would have faced the prosecution: First, as the result of disagreement among the experts, possible doubt might be left in the minds of the jury. Second, and worse, the defense experts might discover, through a careful examination of the ink and/or the paper stock, that the card could not have been signed in 1945, but was indeed a 1950 forgery, and thus have thrown the Government's entire case into a cocked hat!

At the conclusion of Gold's testimony the record shows another significant fact about this supposedly authentic hotel card. When Saypol introduced it as Government Exhibit 16, he was very careful not to present the *original card*, but rather a *photostatic copy*. His excuse was that he had "the original on its way, together with a witness if required," and that time would be saved if the defense would accept it as a genuine copy.*

In this manner he avoided the danger that the defense might summon document experts and examine the card for traces of forgery. With a photostatic copy it would be impossible for such experts to examine the age of the ink or paper as they could with an original.

Since the record shows that the defense accepted the photostat as a true copy, evidently the bluff was successful. Needless to point out, neither the original card nor the witness was ever seen by the defense, the defendants or the jury! As for Saypol's excuse, it is, on the face of it, a specious one — because he had fully eight months to obtain the card before trial. Surely, if the card were a genuine one, he would have known long before trial that he would need it as the *only* bit of documentary evidence substantiating the Albuquerque meeting between Gold and Greenglass.

It is idle to speculate what ruse or legal stratagem Saypol might

*Record, pp. 867-869.

have resorted to had Mr. Bloch not stipulated to authenticity of the photostat and insisted on the original. But of one thing we can be certain: That Gold's alleged registration at the Hotel Hilton was the source of no little anxiety to Mr. Saypol. To cast light on this fact, let us turn to the book written by Saypol's clandestine publicity man, the New York Post reporter Oliver Pilat.* Here is that portion relating to Gold's alleged registration at the Hilton on June 3, 1945:

"He had registered under his right name, without baggage, *the previous evening*, after a visit to the North High Street address around eight o'clock. . . ."† (Emphasis added.)

The previous evening! But we have seen the record in which Gold testifies quite clearly that he stayed Saturday night in a rooming house, and did not register at the Hotel Hilton until "Sunday morning"! And yet Pilat declares in his preface that he is reporting the case accurately, and that all "the details and the quotations [of testimony], save for a rare connecting phrase, come from the record." And here, also in his preface, is this revealing acknowledgment:

"The experts consulted included Irving H. Saypol, the prosecutor at two atomic trials, and now a N. Y. Supreme Court Justice."

What is of significance here is not so much that Mr. Pilat has made a sleazy attempt to bolster Saypol's case by presenting a better story for Gold, but that it serves to expose one of the most gaping "holes" in all this sordid deception.

One of the first questions that occurred to this writer with regard to the authenticity of Gold's registration card was just how long hotels normally retain the thousands of such cards which accumulate over the years. Upon inquiry at the largest hotels in Albuquerque (Hotel Franciscan and Hotel Alvarado), it was learned that *only* the Hotel Hilton kept guest cards longer than the three-year period required by the New Mexico State hotel laws. Evidently, while most hotels are anxious to be rid of the enormous stacks of cards after the three-year requirement, it appears that the Hilton chain is excep-

*This relationship is revealed by a paragraph in the Rogge file memo of Aug. 23, 1950:

"Also, I had lunch with Ruth, Pilat, and H.J.F. We looked at Pilat's articles. They look OK, but HJF as a precaution told Lane previously he would insist Pilat who already had 2 conferences with Saypol, showed the draft of the articles to Saypol or Lane." (Emphasis in the original. See Appendix 5.)

†Pilat, *op. cit.*, p. 4.

tional in having its hotels retain the cards for as long as ten years.

In other words, if Gold's hotel card was a forgery, it is clear why the Hotel Hilton was chosen. *For, had he claimed to have registered at any other Albuquerque hotel in 1945, there have been no way to prove his presence in New Mexico five years later!*

(Note: It is a relatively simple matter to obtain or duplicate hotel registration cards since they are printed in lots of hundreds of thousands by large firms, and considerable stocks are kept in the hands of the printer and at the hotels. This writer had no difficulty in obtaining three or four such cards.)

iv

"He lied with such a fervour of conviction that there was no doubt he earned his pension."

-1

In the examination of Gold's alleged visit to the Greenglass apartment, we will compare the testimony of all three participants and divide the visit into its natural two parts: morning and afternoon. Let us begin with Greenglass' version of Gold's arrival:

Q. [Cohn]: Will you tell us exactly what happened the first minute you saw Gold?

A. [Greenglass]: There was a knock on the door and I went to it. We had just completed eating breakfast, and there was a man standing in the hallway who asked if I were Mr. Greenglass. I said yes. He stepped through the door and he said, "Hello," and I said "oh," and walked to my wife's purse and took out the wallet and took out the matched part of the Jello.

Q. After you produced that, did Gold do anything?

A. He produced his piece and we checked them and the identification was made.

Q. In other words, he had —

A. He had the other part of the box.

Q. And you had last seen that in Rosenberg's apartment in January, 1945?

A. That is right.

*For David's direct on this visit, see Record, pp. 456-465. For Ruth's, pp. 699-701. For Gold's, see pp. 824-829.

Let us try to visualize this scene exactly as it is described. But if we are asked to believe it, then let us consider the state of mind of Greenglass:

SCENE: It is 8:30 A.M. on Sunday, June 3, 1945. A corporal employed at the Los Alamos Project has just breakfasted with his wife. Since April he has waited for Rosenberg to send a courier. Two Saturdays before, his wife had waited in vain in front of the Safeway store. The following Saturday, just a week before, he had joined his wife in the vigil but still no courier.

When he had entered the espionage conspiracy he was "frightened," "worried," and instantly beset by "doubts." And with good reason: (1) He has heard and read the warnings of the death penalty for espionage. (2) He is aware of the intensive surveillance of all personnel whether at work or in surrounding towns. (3) He must know that he is a marked man — potentially suspect for the simple reason that his "A-20" card (his personal background record) contains a "red dot" placed there by G-2 because of his onetime membership in the Y.C.L. He must know this either through direct interrogation by Intelligence officers or via latrine rumors from "premature anti-Fascists" interrogated by G-2 on information received from the Central Subversive File Checks of the FBI. If he does not quite know this for a fact, he must certainly reckon with its possibility, particularly in view of what was regarded as the politically suspect background of his sister and brother-in-law. (4) Although the record does not mention it specifically, by this time he may have heard from Ethel that Julius had been discharged from the Signal Corps by Army Intelligence on FBI charges of Communist Party membership.

Since no courier arrived to meet him at the Safeway store on the specified dates, for all he knows Julius may have been caught or may be under such serious surveillance that the mission was canceled. In any event, he has received no further instructions since his sister's letter in mid-April. Therefore his state of mind that morning, when the unexpected stranger appeared at his door asking for him *by name*, must have been one of paralyzing uncertainty and fearful suspicion.* And yet we are asked to believe this testimony re-enacted:

(Knock on door. Greenglass crosses to open it.)

Man (in hallway): Are you Mr. Greenglass?

*Let us also bear in mind Greenglass' later description of himself as one who snooped out secrets by listening "avidly" and "surreptitiously." Hence, all the more reason why he should be extremely cautious and wary of the stranger.

Greenglass: Yes.

Man (as he steps in): Julius sent me.

Greenglass: Oh. (Crosses to wife's purse, takes out half of cut card and shows it to "man," who produces his half.)

If the reader can imagine seeing this scene on stage or screen played straight and serious, he could not but find it childishly ridiculous. For observe how Greenglass, if we are to believe his testimony, almost greedily rushes to display his half *before* the "man" has produced the necessary identification of the other half! Suppose the "man" were one of Colonel Lansdale's security officers, or a C.I.D. agent seeking to trap him? This would be Greenglass' first thought, because for months he has expected the courier at one place only, the Safeway store. And yet we are asked to believe that without the slightest hesitation he would expose himself as a spy merely on the basis of a visitor saying "Julius sent me"! And if it was true that there was a definite password written down *precisely* for Gold to memorize — namely, "I come from Julius" — then why do we not hear it in its correct form from Greenglass?

By way of a concluding comment to this scene, which can be compared only to one of the more primitive Dick Tracy cartoons, observe in the testimony Roy Cohn's prompting questions establishing the inferential link between "Julius" and Yakovlev. To be sure, Cohn could not whisper his cues into Greenglass' ear (as he was to do with McCarthy three years later*), but considering his obvious impatience one must concede he showed considerable restraint.

Now let us examine Ruth's version of the same incident:

Q. [Kilsheimer]: Will you tell me just what happened on that occasion?

A. [Ruth]: Yes, we had just finished breakfast and someone knocked at the door. My husband opened it and he [the "man"] said he bore greetings from Julius.

He came into the apartment and he produced half of the Jello box side. *Then* my husband went to my wallet and got the other half and they matched them and they fit. (Emphasis added.)

At once we detect how Ruth's testimony repairs the serious error her husband made. Whereas in his version David produces his half first, and *then* Gold produces the other half, Ruth restores the logic

*"... The public, which for thirty-six days watched Mr. Cohn whispering into Mr. McCarthy's ear, would hardly dispute the fact that Mr. Cohn was very valuable to Mr. McCarthy." (Editorial, New York Times, July 16, 1954.)

by reversing the order. It must be noted that, between Ruth's testimony on this point and David's, five full days had elapsed, including the week end. And now to the version of the redoubtable Mr. Gold:

A. [Gold]: On Sunday about 8:30 I went again to the High Street address. I was admitted, and I recall going up a *very steep flight of steps*, and I knocked on a door. It was opened by a young man of about 23 with dark hair. He was smiling. I said, "Mr. Greenglass?" He answered in the affirmative. I said, "I came from Julius," and I showed him the piece of cardboard in my hand, the piece of cardboard that had been given me by Yakovlev in Volks' Cafe. He asked me to enter. I did. Greenglass went to a woman's handbag and brought out from it a piece of a cardboard. We matched the two of them.

Q. [Lane]: Will you describe that cardboard which Greenglass showed you?

A. It appeared to be from the same part of the same packaged food from which the piece of cardboard that I had had originally been cut.

Q. [Kaufman]: When you say Greenglass matched the two, just what did he do?

A. He showed it to me and we put them together, as nearly as I can remember.

Q. How did you put them together? To see whether the ends met, is that what you did?

A. No. Just roughly. I mean you could see at a glance that they were the same thing.

Q. [Lane]: And the two pieces matched, you say?

A. The two pieces matched. (Emphasis added.)

For future reference, let the reader bear in mind Gold's description of the "very steep flight of steps."*

In Gold's description of the Jello box ceremony, we detect how he, too, has evidently been instructed to repair the blunder in Greenglass' version. It is amusing to see how Gold still feigns ignorance that his half was part of the Jello box even though (according to his testimony) he has seen the two parts fitted together and containing the word "Jello" eight times.

Most significant is Gold's slip of the tongue as he almost gives himself away with "the piece of cardboard that I had had originally

been cut." He is about to say: "the piece of cardboard that I had had originally been cut," but he hastily corrects himself.

Regarding the Jello box scene as Gold describes it, that space does not permit its reconstruction of Gold standing in the hallway holding the piece of cardboard in the palm of his hand *before* entering the room. It is ludicrous than in Greenglass' version.

It is appropriate to comment on Judge Kaufman's lack of clarity regarding the Jello box scene. It is another example of his determination to play safe on all points in the prosecution's case. We see clearly that he and Greenglass matched the two pieces of cardboard that Gold specifically describes Greenglass brought from the original box. In addition, Kaufman's notes go back in the record — how Gold relates the instructions, to wit:

"It was cut in an odd shape and Yakovlev and Greenglass . . . would have the matching pieces."

During David's testimony, the record states that he told tails about "the matched part" having "been cut." During Ruth's testimony, Kaufman appears to be perfectly how the matching process worked without assistance:

[Kaufman]: Excuse me. When the box was opened, that side of the Jello box was to come to the front for the purpose in seeing whether the two sides would fit like a jigsaw puzzle?

The Witness [Ruth]: Yes.

[Kaufman]: Very well.

And yet, despite this graphic picture of the Jello box ceremony, Kaufman found it necessary to re-emphasize the point. Obviously, it was only for the effect in the trial.

With such frequent support from "prosecution," it is a wonder that Saypol could sit back smugly and say that, whatever blunders and oversights he might make, he would be practically directed by the Court.

v

In the *Columbia Law Review* summary of the trial, describing Gold's visit, the final item reads: "a further list of spy prospects." T

*According to this writer's observations on a visit to the former Greenglass apartment at 209 N. High Street, Albuquerque, N. M., this description is a complete falsification. (See Section vi of this chapter.)

to a previous "list of potential spy recruits" allegedly furnished Julius by Greenglass in January.

All through the record there are these lists of spy recruits apparently requested by Rosenberg the "spy-master," or by Sobell his "lieutenant," but somehow, as shown previously, *never* do we hear any names of these mysterious persons. One would expect, in view of Roy Cohn's persecution of Julius' former classmates at Fort Monmouth, that at least *one* of these names should have been recalled by Greenglass if such lists had truly existed. Evidence that they did not exist and that Greenglass was instructed to "work in" such vague and nameless lists, willy-nilly, will be seen in the following analysis of what took place after the alleged matching of the Jello box halves:

Apparently losing no time that Sunday morning, Gold asked Greenglass if he had the information ready. The latter replied he would "have to write it up," and proposed that Gold return later at three or four o'clock that afternoon. It is at this point that Greenglass claims to have offered Gold a list of potential recruits. However, he adds that Gold reacted to the offer as follows:

[Greenglass]: . . . He cut me short. . . . He said he didn't want to know about it and I got to work on my report.

Now let us turn to Gold's testimony on this point:

[Gold]: . . . He started to give me the names of these people, the names of some of these people. I cut him very short indeed. I told him that such procedure was extremely hazardous, foolhardy, that under no circumstances should he ever try to proposition anyone on his own into trying to get information for the Soviet Union.

And yet, despite this very stern warning and outright refusal by Gold, what do we find when we skip to the testimony describing the afternoon visit when Gold returned?

[Greenglass]: . . . I also gave him a list of possible recruits for espionage.

And again, a few sentences later in his testimony:

"I gave this list of names and also sketches and descriptive material."

Here is a striking contradiction. On the one hand Gold reprimands Greenglass severely for even offering such a list, but on the other hand Greenglass claims he gave Gold the list notwithstanding. But did he? Here is Gold's full report on what he received from Greenglass:

Q. [Lane]: En route to New York did you at any time inspect the material which you had received from Greenglass?

A. [Gold]: Yes, I did, on the train from Albuquerque to Chicago and somewhere in Kansas, I believe. I examined the material which Greenglass had given me. I just examined it very quickly.

Q. [Kaufman]: Well, now, can you describe a little better what was in the Greenglass package?

A. Yes. The material given me by Greenglass consisted of three or four handwritten pages plus a couple of sketches. The sketches had letters on them which were referred to in the text of the three or four handwritten pages. The sketches appeared to be for a device of some kind.

There is nothing whatsoever here about Greenglass' list of recruits. Now let us examine Gold's meeting with Yakovlev at which he delivered his full report:

"This conversation lasted about two and a half hours. I gave *every detail* at that time of my two meetings with these people [Fuchs and Greenglass]."* (Emphasis added.)

Surely enough time to explain to Yakovlev his reprimand to Greenglass about the list, if, let us say, the latter had stubbornly included it in the so-called package of some six sheets of paper. But not a single reference is made to it by Gold or Yakovlev, not during this purported meeting or any other.

Hence, on this favorite theme song of the Government's case — the American Communist pool of potential spy recruits — evidently Gold simply refused to go along with Greenglass' embroidery. For, to his precise way of thinking, such lists were not proper material to be delivered to the Russians via Yakovlev; and Greenglass should have testified only that he gave such lists to Rosenberg. And so, to complete the metaphor, one might conclude that the prosecution was in need of a more harmonious team of composers.

Apropos of the collaboration between Greenglass and Gold, even when it does not betray fumbling, there is always something artificial about it. Take the phrase used by Greenglass: "He cut me short." Where did he get this? Obviously from rehearsals with Gold. In whose testimony regarding the same point we find: "I cut him very short indeed." Under no circumstances could Gold have used this phrase when he met Greenglass in 1945. One does not say in ordinary

*Record, p. 831.

speech, "I cut you short." It is primarily a *descriptive* phrase, and reveals the unmistakable fact that the pedantic Gold must have gone over at least this part of the story with Greenglass most patiently.

In concluding the testimony of Gold's morning visit, the latter adds this final point:

[Gold]: The last thing that took place that morning was just as I was preparing to go, Mrs. Greenglass told me that just before she had left New York City to come to Albuquerque she had spoken with Julius. This meeting that we had in the morning on the 3rd of June 1945, this Sunday morning, took about fifteen minutes.

There is no confirmation of any such conversation in the testimony of Ruth or David. Moreover, when one studies the sense of this testimony, one can find no logical reason for Ruth to have made such a gratuitous remark. What is obvious, therefore, is that following the Greenglasses' testimony the prosecution felt the name "Julius" should not be limited to Gold's password, but also be put in Ruth's mouth.

Observe again the "idiot savant," as Gold methodically re-emphasizes the time of the day, the day of the week and the date of the month and year, merely to make the point that the morning visit comprised "15 minutes."

In examining the testimony of Gold and the Greenglasses regarding the afternoon visit we find many additional contradictions. Possibly it has been noticed that we are not analyzing all of the discrepancies in their testimony, but only those important enough to show the lack of credibility. Outstanding is the one concerning the \$500 payment which the Greenglasses were supposed to have received from Gold. Here is the substance of David's testimony describing Gold's afternoon visit:

That after Gold had left that morning, Greenglass promptly prepared the sketches of the lens mold together with its descriptive material. That about 2:30 or 3 o'clock Gold returned to pick up the information which Greenglass had placed in an envelope. That in exchange for this envelope Gold gave Greenglass the sealed envelope containing the \$500. That, although Greenglass did not count the money at this time, he felt it and "realized there was money in it."

(Note: Under cross-examination later, Greenglass contributes some additional color, to wit: "It had a nice solid feel." Record, p. 655.)

Then, according to Greenglass, there ensued this dialogue:

[Greenglass]: He said, "Will it be it will be plenty for the present." And we went into a side discussion about miscarriage earlier in the spring, and what I can do about getting some more.

Q. [Cohn]: Was there any further?

A. Well, he wanted to leave immediately and we will go down with you," and we went down, and we went around him in front of the USO [United States Office] went into the USO, and he went on gone down the street my wife and I came out again and back to the money.

Q. How much was it?

A. We found it to be \$500.* (E)

Observe Greenglass' play for sympathy away his alleged acceptance of financial Ruth's miscarriage of mid-April to do testimony Ruth stated that she was a friend" during the few days of her illness cause David was confined to Los Alamos week. Hence there were neither hospital no serious loss of time from Ruth's employment the expense involved in the birth of a baby been some need for extra funds. But which, ironically enough, left them in debt.

It might be added that neither in Gold is there a single word confirming Greenglass for having taken the \$500.

When we examine Ruth's subsequent testimony, too, places the payment of the \$500 in testimony there is a flat contradiction of the payment to the morning visit!

[Gold]: Greenglass then told me material on the atom bomb ready for me.

At this point Mrs. Greenglass went some food. Then I gave Mr. Greenglass

*In later pages dealing with this writer's testimony examine these items of the "back road" a Gold in accompanying the Greenglasses to

And I said, "Well, You need it," and that my wife had a "Well, I will see for you."

on with Gold? and I said, "Wait, a little while. We and we dropped [organizations]. We As soon as he had ed around and we and counted the

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ovlev had given me in Volks' Cafe. This envelope was the one that contained \$500. Greenglass took the envelope from me. Greenglass told me that he would have the information ready at about 4 o'clock, 3:00 or 4 o'clock in the afternoon. . . .

Certainly this important discrepancy cannot be dismissed as a lapse of memory on the part of the Greenglasses. Not only was it the very first sum of money they had allegedly received in payment for their illegal work, but it was the *only* sum they received from Gold. Their testimony is specific and detailed; the envelope was given to them in the afternoon. But Gold's testimony is also specific and detailed; he gave Greenglass the envelope in the morning!

Here it is not a question of which party is lying. They are all three lying. It is our contention that Gold, always a stickler for exactitude, played his part religiously, but that the Greenglasses sought to minimize the unsavory motive of profit that had been forced upon them. And in a sense they were correct, for was not the greatest emphasis concerning "motive" being placed on David's youthful "hero-worship" of Julius?

In our examination of the ensuing testimony we come to another phase of the prosecution's purpose in introducing Government Exhibit 16, Gold's alleged hotel registration card dated June 3, 1945.

Why was this particular date so important for the prosecution to establish? Because it had to synchronize with another date, namely an Albuquerque bank record of Ruth Greenglass which showed that she had deposited a sum of \$400 on June 4, 1945. Evidence of this deposit was then introduced as Government Exhibit 17. If, therefore, Government Exhibits 16 and 17 could be linked together — Gold's registration of June 3 and Ruth's deposit of June 4 — then how could any juror doubt that the \$400 deposit came from Gold's \$500 payment made the day before? And if the jury accepted this "documentary" link, they would not only be certain to accept everything else about Gold's visit, but would be less inclined to question its inherent weaknesses and implausibilities. Let us therefore turn to a summary of Ruth's testimony to demonstrate the fallacy of this link:

On the very next day after Gold's visit, she relates, she deposited \$400 of the \$500 received from Gold in the Albuquerque Trust & Savings Bank. With the balance, she states that she purchased a \$50

defense bond for \$37.50, and used the remaining \$62.50 for household expenses.*

Here again we do not quarrel with full truths. We do not contest that Ruth Greenglass had a bank account and that she deposited \$400 in it on June 4, 1945. Nor even that she purchased a defense bond for \$37.50 on that date. However, as we have sought constantly to show, the nature of modern frame-up is essentially a technique of taking full truths and giving them criminal meanings. And in this instance it was done by means of Gold's registration card, which was obviously made to order to fit the date of Ruth's \$400 deposit.

If one is inclined to speculate just where the Greenglasses obtained their \$400, a good part or even all of it may simply have been the sum total of both their monthly salaries plus Ruth's Army allowance. (Note: Ruth, at this time, was employed as a secretary-typist by the OPA office in Albuquerque.) On the other hand, a fair share or all of it may have been derived from their black market sales of pilfered Army equipment, which subject we will deal with in a later chapter.

Can we believe that the frightened and worried Greenglasses, if they had actually received this spy money, would hurry to *start* a bank account with it on the very next morning? The record discloses that it was Ruth's "first entry." One would think they would have avoided anything so open to suspicion and the danger of inquiry. In subsequent testimony the Greenglasses claim to have hidden the \$4,000 of Russian escape money in their apartment. Why, then, couldn't they have hidden this \$500? And if they were in need, why didn't they draw gradually on the cash? In fact, if they were in such straits as Greenglass described, why the luxury of a defense bond? (Note: This defense bond was not brought into evidence. It may have been a bluff, with Saypol fairly certain that Bloch would not risk demanding proof.)

How convenient for the Greenglasses, this little gesture of flag-waving. How well it served their purposes; it was as though to say: "See! We were not really traitors, but only misguided dupes of the Rosenbergs. Despite the wrong we were committing, our patriotic conscience still stirred us to buy a defense bond."

It might be added that Ruth's bank deposit served the prosecution in still another sense. Since it became circumstantial evidence of the receipt of Russian money, an authentic aura was cast over *all* the other monies the Greenglasses claimed to have received "from

*Record, pp. 701-702.

the Russians" through Julius Rosenberg, and without the necessity of furnishing the slightest proof!

In Gold's testimony describing the conclusion of his afternoon visit, it is significant how each successive member of this trio adds just a little tidbit here and there, very much as stock-company actors do when they "pad" their roles by "ad libbing" an extra line or two with each performance. Here is Gold describing what happened after he was given the envelope of information:

[Gold]: . . . I took the envelope. Mr. Greenglass told me that he expected to get a furlough sometime around Christmas, and that he would return to New York at that time. He told me that if I wished to get in touch with him then I could do so by calling his brother-in-law Julius, and he gave me the telephone number of Julius in New York City.

Q. [Lane]: Do you recall now what that number was?

A. I cannot.

Q. Was that all that was said at that time?

A. I told Greenglass that very likely I might be returning to Albuquerque in the early fall of 1945 and if I did so there was a possibility that I might stop in and see him.

Q. And did you receive some information at that time, some papers from Greenglass?

A. I have already related that he gave me an envelope which contained, *which he said* contained information on the atom bomb.

Q. And then what did you do?

A. The three of us, Mr. Greenglass, Mrs. Greenglass and myself, left the Greenglasses' apartment and we walked along a *slanting back street* in Albuquerque, and there in front of a small building [the USO] I left the Greenglasses.

Q. And did you return to New York?

A. Yes, I did.

Q. *Immediately?*

A. Yes, I did. (Emphasis added.)

In the first place, there is nothing in the testimony of the Greenglasses to substantiate any part of this alleged conversation. Although it relates specifically to David's next furlough, the record shows that it took place in September of 1945 rather than at Christmas.

Is it likely that David, anticipating and planning his annual furlough, actually taking place only three months later, would have said

it was to be around Christmas? And how would Gold to drop in on the Greenglasses "in the early time coincided precisely with the time of David's furlough in New York?

Once again we see Gold dragging in the name of the same old hearsay trick ("He told me," he adds "brother-in-law" in order to pinpoint the Julius Rosenberg. But if we are to believe Greenglass this to Gold, why would such a dangerous intermediary suggested? Gold has revealed nothing about Yako intermediary. Neither did Julius back in January entered with the message "Julius sent me," and in the half of the Jello box last seen in Julius' hand, I assume that Gold and Julius know each other. *Why be necessary for David to tell Gold how to reach Julius?*

And finally, if we are to believe Gold's rigid pattern working through a "superior," wouldn't he have very short indeed at such an offer? Here is an exact set pattern" Gold invariably followed:

[Gold]: A system was set up whereby Yako touch with me if he wanted me quickly, but touch with him because I didn't know where. That in this way the chain was cut in two places, whom I got the information . . . did not know name, nor did he know where I lived, nor could with me and I couldn't get in touch with Yako. I said this was a good thing.*

Certainly, it would not be a "good thing" for Gold Julius' telephone number and then telephoned Julius and said, "Hello. This is Dave from Pittsburgh."† touch with your brother-in-law, Greenglass." In number happened to be listed in the New York telephone hence David would hardly need to give it to Gold a secret number of a direct line to spy headquarters.

Observe how Gold hastily corrects himself to say "contained information on the atom bomb." Can Greenglass, acutely conscious of surveillance (including informants and hidden microphones), would a Sunday afternoon in a house filled with other people

*Record, p. 817.

†In his testimony, Gold states that he introduced him- glasses as "Dave from Pittsburgh." (Record, p. 826.)

In this writer's visit to 209 North High Street it was ascertained that no less than four other families shared this house with the Greenglasses. The walls are very thin, since it is only a remodeled one-family home. Moreover, the Greenglasses' adjoining neighbors shared a hall bathroom which has a common wall with the Greenglass apartment.

Under such circumstances, it is inconceivable that spies would use such wording as "This contains information on the atom bomb." But Gold had been instructed to testify that the phrase "atom bomb" was actually mentioned, so that there could be no doubt about just what kind of secrets Greenglass was consciously delivering at the request of the Rosenbergs.

In concluding our analysis of Gold's alleged visit to the Greenglasses, a brief comment is in order concerning this "information on the atom bomb." It consisted allegedly of additional sketches of the High Explosive Lens and, as in the case of the sketch allegedly given Julius in January, "copies" were also submitted into evidence as Government Exhibits 6 and 7. And here, too, it was admitted by Greenglass that the "copies" were prepared before or during trial and that he had "relied solely upon memory."

However, according to Greenglass' testimony, we find that these sketches represented but *one part* of a series of "constant experiments going on" in the many machine shops at Los Alamos. In other words, despite the six years that had elapsed we are asked to believe that he remembered each and every detail exactly:

The Court: Is this to your present knowledge *an exact replica* of the sketch which you turned over even to the extent of the comments on the side?

The Witness [Greenglass]: It is. (Emphasis added.)

In the next chapter, dealing with Greenglass' alleged delivery of the Nagasaki atomic bomb plans, we will see by the affidavits of prominent physicists that they themselves would find it impossible to recall exactly and solely from memory an experiment six years after they had worked on it!

iv

By way of a postscript to Gold's alleged visit to the Greenglasses, as indicated previously, this writer undertook a special trip to the so-called scene of the crime. It was, in a sense, a "see-it-for-oneself" trip and involved retracing every step Gold claims to have taken in

Albuquerque and Santa Fe. Not only did this investigation prove that Gold's testimony was a fabrication, but that it was shoddily prepared with the customary contempt for the public intelligence.

We have already noted the discovery at the Greenglass house that Gold's description of the "very steep flight of steps" was an outright falsification of visible fact. This writer can affirm that the only flight of stairs at 209 N. High Street is the very opposite of "steep" and can be ascended with the barest minimum of effort. It consists of four unusually wide and shallow steps followed by a large, roomy landing at the turn, and then eight more shallow steps ending at Greenglass' floor. It is clear that Gold never saw the inside of 209 N. High Street and tossed in the item about the very steep stairs to lend the appearance of authenticity to his visit.

In addition, a thorough check was made of Gold's "slanting back street," which Ruth's testimony places "back of the house." Although this writer reconnoitered the surrounding neighborhood thoroughly, he found no such slanting back street or back road in that vicinity. All of the streets are laid out in the usual rectangular fashion. Moreover, inquiry was made of a few old-time residents, and none of them had ever heard of or seen any such street in that neighborhood.

What may be possible is the following: After one walks two or three blocks from the Greenglass house in the direction of the USO one comes to a group of high school buildings. Here, one can walk diagonally across the school grounds by cutting in and out among the buildings. Undoubtedly, the Greenglasses had often taken such a short cut to drop over to the USO. Possibly, in descriptions to the FBI of his weekend activities in Albuquerque, this short cut found its way into one of Greenglass' numerous statements and was referred to vaguely after five years as "a back road." Obviously, after it was picked up by Gold, he thought it would heighten the atmosphere of intrigue to embroider it into "a slanting back street."

In examining Greenglass' astonishing proposal to accompany Gold, and the latter's no less astonishing acquiescence, one can conclude only that these two collaborators in melodrama must have been very much taken by their own imagination as they wove this episode of their tale. Added to the intrigue of taking "a back road" there is Greenglass' testimony how he "looked around" furtively and cautiously "in front of the USO."

Hence we have his admission that he was fully aware of the possibility of surveillance. Confirming this, here is a report of the extent of the surveillance existing at the time from none other than Dr. J. Robert Oppenheimer, head of the Los Alamos Project, as quoted in the *New York Times*:

"Telephone calls were monitored, mail was censored and personnel who left the area . . . knew that their movements might be under surveillance."* (Emphasis added.)

It was allegedly a Sunday afternoon, a time when the USO building would be crowded with Army personnel, among whom there was likely to be one or more of Colonel Lansdale's undercover men. How, then, can we believe that Greenglass would knowingly risk walking there in the company of another spy who was carrying on his person atomic secrets in Greenglass' own handwriting! And with Greenglass carrying on his person the sealed envelope containing the \$500!

And how can we believe that the veteran courier Gold, carrying also Dr. Fuchs' atomic information, would take this dangerous walk in a town which Greenglass must have warned him was under the sharpest kind of surveillance? Do experienced spies behave so stupidly in any of the authentic cases on record? Indeed, here is an excerpt from Gold's own testimony sharply contradicting such reckless conduct:

"If I was going to actually get information, very usually a brief meeting was scheduled, the idea being to minimize the time of detection. . . ."[†]

Furthermore, in Mr. Hoover's article describing Gold's alleged final meeting with Dr. Fuchs taking place in Santa Fe on Sept. 19, 1945, there is this evidence that Greenglass and Gold were lying about this stroll to the USO:

" . . . Just before the two men parted, Fuchs gave Gold a packet of vital information. It was *standard practice* for the incriminating parcel to be withheld until the *last minute*." (Emphasis added.)

But we have seen that Gold permitted Greenglass to give him the incriminating parcel in the apartment and instead of making this the *last minute* of their transaction, they take a promenade together, without the slightest rhyme or reason to explain it.

*The irony of ironies, as learned from the Atomic Energy Commission hearings, was that Dr. Oppenheimer himself was always under close surveillance. Even his chauffeur was an undercover man. (See text of Oppenheimer's reply brief to A.E.C. charges; New York Times, April 4, 1954.)
[†]Record, p. 815.

While we are on the subject of Gold's alleged meeting with Dr. Fuchs, it is appropriate to reexamine Hilton registration card in the light of additional and known information which this writer has obtained.

Since the record does not show what address Gold put on his card, this writer initiated an inquiry as to this point and uncovered the fact that the prosecution had prepared two registration cards, one for June 3 and one for Sept. 19, 1945. The photostat of the September 19 card is in evidence and is not mentioned or referred to in the record. However, it furnishes almost conclusive corroboration of the fact, explaining why the Hotel Hilton in Albuquerque was chosen, that it turns out that Gold's alleged registration card of Sept. 19, 1945, was also at that hotel, despite the fact that he had no room at Albuquerque on that date!

Here is a breakdown of the two alleged registration cards containing Gold's true name:

On the June 3 card, the home address is given as: "St., Phila. 24, Penna." The business connection is given as "Siebert."

On the September 19 card, however, the home address is given as "132 Bowden Street, Phila. 24," and the business connection as: "A B A Laboratories, N. Y."

Now, in Gold's testimony at the Rosenberg trial, the fact that on the June 3 card is confirmed as his true place of residence, that he had lived there from June of 1944 until at least June of 1946.* As for the address on the September 19 card, the similarity to it is in Gold's cross-examination at the trial when he was asked:

Q. Did you ever live at Boudinot Street?

A. [Gold]: I lived at 5032 Boudinot Street.[†]

So far, then, we have the curious situation of Gold giving two different addresses at the same hotel within a period of three and a half months. On the first occasion allegedly giving the true and exact address, and on the second occasion giving a spurious address which could not fail to arouse suspicion if the two cards were checked by the C.I.D. or F.B.I.

But it is from his allegedly stated business connection that further suspicion would have resulted. Despite the fact

*Record, p. 841.

[†]Brothman Record, p. 909. (Note: Compare with "132 Bowden

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was employed by the Pennsylvania Sugar Company on both June 3 and September 19, we see that he put down "Terry & Siebert," a small chemical laboratory. Although this firm no longer exists in Philadelphia, this writer managed to locate one of its former owners and learned the following:

1. That Gold was never an employee there.
2. That from time to time he did some minor odd jobs for this firm to supplement his meager earnings at Pennsylvania Sugar Co.
3. That these jobs entailed routine laboratory checks on molasses and alcohol processes.
4. That Gold was never sent by the firm anywhere.
5. And that the firm had no connections of any kind in the Southwest and knew of no trips Gold had undertaken there.

In short, therefore, even a cursory investigation of Gold following his June 3, 1945, registration would have placed him in a serious predicament. But how much more so as the result of what he put down as his business connection on his September 19 card, to wit: "A B A Laboratories, N. Y." Because, according to his own testimony at the Rosenberg trial, such an act would have been equivalent to having written down "Spy Headquarters"! Let us see why. Here is how Gold describes his final meeting with Yakovlev on Dec. 26, 1946:

That at about five o'clock in the late afternoon, he received a telephone call from Yakovlev under the pseudonym of "John" at the laboratory of A. Brothman and Associates in New York. (Note: otherwise known as the A B A Laboratories.)

That an appointment was made for later that night at a street corner on 42nd Street and Third Avenue where Gold and Yakovlev met and went into a bar on Second Avenue.

That Yakovlev asked Gold to plan for an espionage mission to Paris in March of 1947, and that the discussion involved the problem of how Gold was to manage "to get off from work to make this trip to Paris."

[Gold]: I told Yakovlev that once the pressure of work at Abe Brothman and Associates had eased up a bit — and then Yakovlev almost went through the roof of the saloon. He said, "You fool." He said, "You spoiled eleven years of work." He told me that I didn't realize what I had done, and he told me that I should have remembered that some time in the summer of '45 he had told me that Brothman was under suspicion by the United States Government authorities of *having engaged in espionage* and that I

should have remembered it. . . . And he dashed out of the place. I walked along with him for a while and he kept mumbling that I had created terrible damage. . . . Yakovlev then told me that he would not see me in the United States again, and he left me.

Q. [Lane]: That was your last meeting with Yakovlev?

A. That is right.* (Emphasis added.)

To clarify this final alleged break, it occurred because Gold had taken a job with a spy (Brothman) who was "hot" and who had been under suspicion and possible surveillance since the summer of 1945. Without going into the endless contradictions which arise in this portion of Gold's testimony, let us return to his alleged registration card of Sept. 19, 1945. If we are to believe his testimony, we must believe that, despite Yakovlev's dire warning of that summer that Brothman was under suspicion "of having engaged in espionage," Gold nevertheless put down this dangerously "hot" business connection on the September 19 Hotel Hilton card.

Furthermore, we discover in Gold's previous testimony concerning the September 19 rendezvous with Dr. Fuchs that he had no reason whatsoever to go to Albuquerque. Here is the record as he relates Yakovlev's instructions prior to that trip during their meeting of August, 1945:

"The conversation concerned the fact that I was to take, soon to take a trip in September to Santa Fe to meet Dr. Fuchs. I told Yakovlev that since I was going to see Dr. Fuchs I might as well go to Albuquerque and see the Greenglasses. *At this time Yakovlev told me that it would be inadvisable to endanger the trip to see Fuchs by complicating it with a visit to the Greenglasses in Albuquerque.*"† (Emphasis added.)

And so we see that Gold not only had no reason to stop off in Albuquerque, but that he was specifically warned that it would be dangerous to go there.

And yet, according to the photostat of the alleged September 19 card, we are asked to believe that Gold nevertheless went to Albuquerque and again registered in his own true name at the Hotel Hilton.

It must be understood that when one is traveling from Chicago to Santa Fe, Albuquerque is a considerable distance farther. In other words, had Gold stopped at a hotel in Santa Fe, he would have

*Record, pp. 841-844.

†Record, p. 835.

saved himself not only an additional train trip to and from Albuquerque, but an additional 120-mile bus trip from that city to Santa Fe and back, as well as the additional expense.

Why, then, one asks, was there this illogical and unnecessary September 19 card prepared for the Hotel Hilton in Albuquerque? For this simple reason: It was the only hotel near Santa Fe that retained guest cards for more than three years. In other words, whoever prepared these fraudulent cards in 1950 was forced to choose a hotel which could be proved to have kept such registrations since 1945!

To summarize, therefore, if we are to believe in the authenticity of these two registration cards we must accept the following improbable and incredible conduct on the part of Gold:

1. That a trained, cautious, veteran spy such as Gold paints himself and as Mr. Hoover describes him would recklessly and unnecessarily have returned to the scene of the crime.
2. That despite the knowledge that his June registration may have aroused suspicion because of his absence of baggage and failure to stay overnight, he would have nevertheless chosen to return to precisely this hotel in September, only three months later.
3. That he would have knowingly invited additional suspicion by using two different home addresses and two different business connections within a three-and-a-half-month period.
4. That he would have put down not the firm which truly employed him, but one that used him only for odd jobs and another whose owner was a brother spy whom he knew to be under Federal suspicion at that very time.
5. That despite the fact that staying at the Hotel Hilton on September 19 represented hundreds of miles of additional traveling and extra fares, he would have nevertheless spent this unnecessary time and money.
6. And finally, that he would have done all this despite the specific warnings and instructions of his superior, given him in the August meeting just before his departure.

Earlier in this chapter we discussed the improbability of Gold's registering on Sunday morning, when he must have known that he had to catch a morning train in order not to miss his "prearranged" rendezvous with Yakovlev in New York. Here is his testimony concerning that rendezvous:

Q. [Lane]: When did you arrive back?

A. [Gold]: I arrived in New York on the evening. . . .

Q. Where did you meet him?

A. I met Yakovlev along Metropolitan.

The Court: What time was it?

The Witness: It was about 10 o'clock.

Thus, we see how very precise Gold is all the time. He met Yakovlev. And with regard to his trip from the USO, his testimony shows this to have been at 4:15 P.M., Sunday, the 3rd of June.

Since it was also Gold's testimony that he did not leave for New York that Sunday afternoon, then we can check the railroad schedules for that date to see if Gold could have taken to reach New York that night rendezvous on June 5. At the Albuquerque station, the timetable of June, 1945, was as follows:† This timetable proves the

1. That it was *impossible* for a passenger train to have left Albuquerque on Sunday and to have reached New York on a Tuesday.

2. That there were only three fast trains leaving Albuquerque on Sunday which could arrive in Chicago on Tuesday to allow Gold to make a connection in New York City the next day, Tuesday. (See Gold's previously quoted testimony that he traveled by train. Record, p. 828.)

3. That these trains were the *El Gato*, the *Superchief*, but the schedules of these trains were respectively: 6:25 A.M., 9:00 A.M., and 11:00 A.M. Mountain Standard War time.

4. That, since the last fast train had left the Greenglass apartment, there was no way he could have taken that Sunday, the slow night train which left Albuquerque on Sunday and not arrive in Chicago until thirty-six hours later on Tuesday.

5. That no train leaving Chicago on Sunday morning could have gotten Gold into New York on Wednesday morning!

*Record, p. 829.

†See photostat of Santa Fe timetable of June.

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415, in Appendix 22.

In short, then, Harry Gold's testimony about his June 5 rendezvous with Yakovlev, during which he swears he transmitted the secret information from Fuchs and Greenglass, is a *provable perjury*! Coupled with such other lies as the "very steep stairs" and the "slanting back street," as well as all the contradictions contained in his alleged conversation with the Greenglasses and all the improbabilities of his conduct as a spy, the only conclusion one can come to concerning his visit is that it was fashioned entirely out of whole cloth!

v

By way of a postscript to Gold's testimony, there is the question of why Mr. Bloch decided not to cross-examine him, despite the prosecution's insistence that he was the "necessary link" in the so-called chain of guilt around the Rosenbergs. The question has been posed to this writer by not a few laymen and therefore bears mentioning in more than a lengthy footnote.

In the series of interviews this writer had with Emanuel Bloch the problem was frequently discussed in all its ramifications. The attorney explained his decision as follows:

That in a legal sense Gold had never actually connected Julius Rosenberg with the alleged Yakovlev-Gold-Greenglass conspiracy. That even if one believed Gold's testimony regarding his visit to the Greenglasses his claim was that his half of the Jello box had been given to him by Yakovlev and not by Julius Rosenberg. That although Gold had included the name of a "Julius" in his alleged password it was not that of Julius Rosenberg and therefore could have been that of any other person or a fictitious name. That Gold never claimed to have met the Rosenbergs or even to have heard about them as members of the alleged conspiracy. And that, in view of these circumstances, it would have been contrary to all established criminal court strategy—indeed, sheer folly—to have challenged Gold in cross-examination and thereby invited that glib and agile witness to involve the Rosenbergs "spontaneously."

In discussing Mr. Bloch's decision and reasons with other attorneys this writer found that the majority sided with Bloch's opinion, especially in view of the importance Gold enjoyed at the time of trial as the officially accepted accomplice of Dr. Fuchs. However, despite this consensus, this writer took issue with Mr. Bloch as follows:

That each time Gold mentioned the name "Julius" the jury itself must have filled in the name of Rosenberg. That each time Gold mentioned his half of the Jello box the jury must have visualized Rosenberg delivering it to Yakovlev directly or by means of a Communist Party intermediary. That, with the Greenglasses' testimony

about the cutting up of the two halves by Julius, the inference of the Rosenberg-Yakovlev link must have dominated the jury's mind. That, regardless of the fact that Gold had not connected Julius Rosenberg in a legal sense with the conspiracy, the jurors, being laymen, must have viewed the failure to cross-examine him as a concession of Gold's veracity. And that while it might not have made any possible difference to the verdict of the jury, which was already preconditioned by the official acceptance of Gold, nevertheless an incisive cross-examination of his concoctions (disclosed at the Brothman trial) and his admitted talents as an accomplished deceiver might seriously have damaged the prosecution's case before the public.

In reply, while Mr. Bloch conceded that these arguments had real merit, he pointed out that they were the product of hindsight and an intensive investigation which was not possible at the time of trial. In this respect, it is worth quoting the following opinion:

"Advocacy is a skill and art; easy to criticize, difficult to fairly appraise. Indeed, a post-mortem of criminal trials, selected at random, would undoubtedly reveal flaws of varying magnitude in the trial techniques of respected members of the bar. Our profession is one in which hindsight is a meager measure of counsel's competency. Trial strategy is seldom viewed with a uniform eye."*

In later discussions, particularly after this writer's trip to Albuquerque had revealed the extent of Gold's fabrications, Mr. Bloch voiced his feelings about the frame-up as follows:

"For thirty years I have been an officer of the Court. True, I had seen nefarious practices in the criminal courts, but basically I believed in the administration of justice and in the integrity of most officials sworn to uphold it. Yes, I thought that Gold was possibly mixed up in some kind of espionage, but I knew that he was a liar about that Jello box business. And certainly that Greenglass was dragging in the Rosenbergs to save his own hide. But how could I dream that officials in the Department of Justice would lend themselves to the perpetration of a complete hoax concocted by this weird character, Gold? I suppose that was my biggest mistake—having those illusions, underestimating the cynicism and power for evil in high places.

"Maybe that's why I believed to the last minute that they wouldn't dare go through with the executions. I couldn't believe in that much evil."

*United States v. Stoecker, 216 F. 2d 51 (C. A. 7th, 1954).