

*Max Elitcher—for Government—Direct*

A. (Continuing) —had been in the papers and I knew from the mention of the name to whom he was referring. She had been.

Q. Did you know what her activities were? A. Well, she had just—

Mr. E. H. Block: I object to that as incompetent, irrelevant and immaterial, not within the issues of this case.

The Court: I will overrule it. She is going to (356) be a witness apparently, according to the witness list.

Mr. E. H. Block: I don't know what she is going to testify to.

The Court: Neither do I.

Mr. E. H. Block: In the present state of the record, it is my contention that these defendants are not bound by any of Miss Bentley's activities.

The Court: I can only take it subject to connection.

Mr. E. H. Block: All right. Exception is automatically noted—that is true, your Honor, in the Federal Courts, one doesn't have to take an exception after one makes an objection?

The Court: You don't have to make an exception but you must make an objection.

Mr. E. H. Block: Once the objection is made, the exception is implied in the case of an adverse ruling.

The Court: That is right.

A. (Continuing) 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.

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Q. Was there anything about some equipment that you noticed in Sobell's home, that you can tell us about? A. Well, he had photographic equipment, enlarging; (357) he had a 35—a Leica camera, and an enlarger and material for processing film.

The Court: Who is this, Sobell?

The Witness: Sobell, yes.

Q. In your experience with Sobell, from your own work and from what you knew about him, is it accurate to say that material that you worked on in the Navy Department, that he 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? A. Yes.

Q. When was the last time that you saw Sobell? A. Well, I believe it was sometime in June of 1950.

Q. Did you have any conversation with him at that time about any plans that he had? A. Well, the last time I saw him, he had said that I—I don't know whether he told me—I know the family was going to visit Washington to bring their daughter to visit Washington, and they left sometime before the week-end, and that is all I know of their plans.

Q. Did he say anything to you at that time about going to Mexico? A. No.

Q. At that time, where were you living? A. At this time, 164-18 72nd Avenue.

Q. Do you know where he lived? A. Yes.

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Q. Where? A. 164-17 73rd Avenue, which is—

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Q. You lived close together? A. —which is—our back yards abut.

Q. 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. Well, in the course of his duties, I did, as far as I know, I saw him take—he had a briefcase, and he did take things out of Reeves Instrument. I presume that they had to do with work. We had another installation at Roosevelt Field, Long Island, and he went there quite often, and I know that he did have a briefcase and he took material out, but what it was, or what the material was, I do not know.

Mr. Saypol: You may examine.

Cross-examination by Mr. E. H. Bloch:

Q. You are married, Mr. Elitcher? A. Yes.

The Court: Speak up, please. I can hardly hear you.

Mr. E. H. Bloch: I am sorry.

Q. Are you married? A. Yes.

Q. Have you any children? A. Yes.

Q. How old are your children? A. One is five and the other is 14 months.

Q. Now, when were you married? A. In May of 1943.  
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Q. Where did you marry? A. In Washington.

Q. What year? A. 1943.

Q. 1943? A. Yes.

Q. Now, when you attended CCNY, did you attend the Engineering School? A. Yes.

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Q. And were the classes in that school in one building, in one building alone? A. The engineering classes were held in one building.

Q. By and large, is it fair to say that most of the student body who took the same courses that you did, looking toward a degree in electrical engineering, concentrated mainly in the engineering building? A. Yes, sir.

Q. And that building is separate and apart from the other buildings up at CCNY campus; is that true? A. Yes.

Q. Now, how many students at CCNY, during the course of your college days, did you become friendly with? A. Well, I became very friendly with few, if any. I knew all the members of the class. I had almost no social relations with them. I think I saw one or two perhaps outside of the school, perhaps only on one or two occasions only. I think I knew them all almost equally well, the ones in the electrical engineering, of those going for a degree in electrical engineering, probably, the best.

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Q. And some of your classes also contained students who were not in the class in which you were graduated; isn't that correct? A. Yes.

Q. How many students in all would you say you knew—

Mr. E. H. Bloch: I withdraw that.

Q. How many students in all would you say attended the engineering classes, in the engineering building at CCNY, during the years of your college days? A. Total number?

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Q. Yes. A. Might have been 150, 200.

Q. That is, in your class alone? A. Oh, no; I was thinking—yes, about that, in my class of '38.

Q. And together with the other students from the class of 1939 or the class of 1937 or the class of 1940, there were many hundreds of students?

Mr. Saypol: There is no reference to—

Q. Who attended school with you; is that correct?

Mr. Saypol: Did counsel say 1940?

Mr. E. H. Bloch: I said, the class of 1940.

The Witness: Would you repeat the question?

Q. That is a fair statement, isn't it, there were hundreds of students with whom you attended classes together? A. Yes.

Q. And to whom you at times spoke? A. Yes.

Q. And you didn't consider these people your friends; (361) they were just casual students, who were engaged in common studies with you; is that correct? A. That is correct.

Q. And, is it not a fact that the defendant Julius Rosenberg came within that type of student, whom you met quite casually during your college days? A. Yes, sir.

Q. Now, when were you graduated from college? A. My actual graduation took place in June of 1938.

Q. And up to June of 1938 were you a resident of the City of New York? A. Yes.

Q. How long after June, 1938, did you depart for Washington, D.C.? A. I departed in November of that year.

Q. During the period from June, 1938, to September of 1938, were you working in New York? A. No.

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Q. Were you unemployed? A. Yes.

Q. You were looking for a job? A. No.

Q. You mean, you took a voluntary vacation? A. No, I was going to school.

Q. You were going to school and were you attending classes? A. At City College.

Q. Was that some kind of a post-graduate course? A. Yes.

Q. Was Julius Rosenberg in the class or the classes which you attended during the period from June, 1938, (362) to September, 1938? A. Would you repeat that again? I am sorry, I didn't get the dates.

Mr. E. H. Bloch: I think the reporter has them.  
(Question read by reporter.)

A. I don't recall.

Q. In fact, Julius Rosenberg was merely a vague person in your mind, at least during your college days; isn't that correct? A. Yes.

Q. You never met him socially during your college days, did you? A. That is correct.

Q. You did not? A. No.

Q. And you did not meet him socially during the period from June, 1938, to September, 1938, when you took these post graduate courses in CCNY; is that correct? A. That is correct.

Q. Now then, you left for Washington; is that correct? A. Yes.

Q. Did you make application to the Federal Government for employment prior to September, 1938, or did you wait until you reached Washington before you made formal application to receive a position with the Federal Gov-

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ernment? A. Well, in June, 1938, I took an examination for the position of junior engineer and I was appointed to that position when I left New York.

Q. Where did you take that examination? (363) A. In New York.

Q. Prior to the time that you took that examination, did you fill out a form 57? A. Yes.

Q. You know what a form 57 is? A. Yes.

Q. Just for the clarification of the jury, is it not true that that is the form that is required of all Federal employees or prospective Federal employees or persons who seek Federal employment? A. Yes.

Q. Is that correct? A. Yes.

Q. And it is a rule and regulation and it is a prerequisite that before you get a position with the Federal Government you must fill out a form 57? A. That is correct.

Mr. Saypol: I don't know whether the witness knows it, but it is an application for Federal employment.

The Witness: I know that.

Mr. E. H. Bloch: That is correct; that is the only purpose of these questions, to clarify what a form 57 means.

Q. Now, in connection with that application, you were required to answer certain questions? A. Yes.

Q. Is that correct? A. Yes.

Q. About your background? A. Yes.

Q. And whether or not you belonged to certain organizations? A. Well, I don't remember the exact (364) question that was asked on the Form 57, but it is one of such a nature.

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Q. In June 1938 were you a member of the Communist Party? A. I was not.

Q. At any rate, you filled out that application? A. Yes.

Q. Now, where were you stationed when you received your original appointment with the Federal Government, in September 1938? A. I was here, in New York.

Q. No, after you received your appointment? A. Where was I stationed?

Q. Yes. A. In Washington, D.C.

Q. In the district proper? A. In the district proper.

Q. And could you tell us the specific location of the building at which you worked? A. It is at 17th and Constitution Avenue N.W. It is called "The Navy Building."

Q. Is that the main Navy Building? A. The Main Navy Building.

Q. They had no temporary barracks at that time, which sometimes were utilized from time to time by the Government for Federal employees? A. I don't believe that in 1938 there were such temporary buildings.

Q. How long did you continue working at that (365) location? A. Until October of 1948.

Q. Always at that same spot? A. Yes.

Q. Now, have you told the Court and jury about all your meetings with Julius Rosenberg in Washington and New York or any other place? A. To my knowledge, yes.

Q. You have gone over your story? A. Yes.

Q. Before you came into this court, have you not? A. I have told the story, yes.

Q. How many times have you gone over this story with others? A. With others?

Q. Yes. A. Well, I have talked to the FBI on many occasions.

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Q. How many occasions? A. I don't know; it is quite frequent.

Q. And when was the first time that you spoke to the FBI? A. In—it was July of 1950.

Q. Did you speak to the FBI prior to the time that you were subpoenaed as a witness before the grand jury here, sitting in the Southern District of New York? A. Yes.

Q. Did you go to the FBI voluntarily? A. Well, no.

Q. Did they come to you? A. Yes.

Q. They came to you down in Washington? A. No, that was here.

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Q. I am sorry, in Flushing? A. No, it was at my place of business.

Q. Do you remember the exact date when representatives of the FBI came to see you at your place of employment? A. The date, no, I do not.

Q. You don't remember that. That was done recently? A. Yes.

Q. You do remember, however, precisely when Rosenberg is alleged to have talked to you the first time in Washington? A. Yes.

Q. That you do remember? A. Yes.

Q. Now, did you speak to any others besides the FBI about the story that you have recounted here this morning? A. Yes, in the past week I have talked to the attorney's office.

Q. When you say "the attorney's office," you mean the staff of Mr. Saypol? A. Yes.

Q. Did you speak to Mr. Saypol? A. Yes.

Q. Did you go over your story with him? A. Yes.

Q. He asked you a lot of questions? A. Yes.

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Q. And you gave answers? A. Yes.

Q. Was there anybody of Mr. Saypol's staff with whom you went over this story? A. Yes.

Q. Will you name the person or persons with whom (367) you went over your testimony, in preparing for this trial? A. Well, I have talked to Mr. Kilaheimer or Kilsheimer, and Mr. Cohn.

Q. Two of the gentlemen who are sitting with Mr. Saypol at the front table there? A. Yes.

Q. Did you go over the story with any other representative of the United States Government, at any time? A. Yes.

Q. With whom? A. I have talked with Mr. Lane.

Q. When? A. Well, this was some time ago.

Q. Well, tell us when. A. Well, I have talked to him on more than one occasion.

Q. When was the first occasion you talked to him? A. The first time would be sometime late in 1950. I was talking to the FBI and then I was asked to—well, at the time of the grand jury, I saw him before the grand jury testimony, before I testified before the grand jury, and there was one other occasion, on which he asked me questions about the testimony after that.

Q. Now, in the course of going over the testimony you were to give at this trial, did you discuss these matters with various members of Mr. Saypol's staff, as well as Mr. Saypol, in this building? A. Well, I talked to members of Mr. Lane's office. I don't know—

Q. Well, Mr. Lane and Mr. Saypol are of course (368) parts of the same organization, Mr. Saypol being the chief here. A. Yes, I did.

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Q. And only in this building? A. Well, I talked to the FBI at my home.

Q. No, no, we will come to the FBI. I am just asking about Mr. Saypol and his staff? A. Yes, in this building.

Q. Always in this building? A. Yes.

Q. And when you spoke to them, were stenographers present? A. Yes.

Q. On how many occasions? A. Well, I spoke to Mr. Saypol on, I believe, three occasions, and prior to that I had spoken to Mr. Kilsheimer. Now, I had also spoken to Mr. Lane prior to that time, about two, possibly three times, which times stenographers were present, and I talked to Mr.—no, I think that was all.

Q. Now, outside of the conversations that you said you had within the last week or so with members of Mr. Saypol's staff, did you have conversations with members of Mr. Saypol's staff prior to the time that you appeared as a witness before the grand jury? A. Yes.

Q. Sitting in this District? A. Yes, I spoke to Mr. Lane.

Q. Do you remember when you testified, if you did—

Mr. Bloch: I withdraw that.

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Q. Did you testify before the grand jury, sitting in this District? A. Yes.

Q. And do you remember when that was? A. In August of 1950.

Q. And there was of course a stenographer present at that time? A. Yes.

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Q. Do you remember the attorney representing Mr. Saypol's office who queried you while you were testifying before the grand jury? A. Yes.

Q. What is his name? A. Mr. Lane.

Q. Did you make any written statements, either to the members of the FBI, who questioned you, or to Mr. Saypol, or any members of the staff? A. Yes.

Q. On how many occasions? A. Three.

The Court: I don't think that is clear. When you say, "Did you make written statements," you mean was a statement taken down in question and answer form, or did he submit a statement in writing?

Mr. E. H. Bloch: I agree with your Honor. I will clarify it.

Q. Did you sign any statement? A. Yes.

Q. And you put your signature down on statements how many times? A. Three times.

Q. Tell us the dates when you signed statements for the District Attorney's office or for the FBI. (370) A. Well, the date they visited me, they came to see me at Reeves and took me down.

Q. That was in June 1950? A. July, I believe it was.

Q. Don't you know whether it was June or July? A. It was July.

Q. You are sure of that now? A. Yes.

Q. You are sure it was after the July 4th weekend? A. Yes.

Q. Was it in the middle of July? A. I could identify the time.

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Q. I would like you to identify the time, please. Just state your recollection. A. I would say it was the middle of July.

Q. You would say it was the middle of July; do you remember what day of the week it was? A. I think it was just before the weekend. I believe it was a Thursday.

Q. Are you sure of that? A. Yes.

Q. Now, the first time that you were queried by the FBI, you say you were queried in the office of your employer? A. No, here, in this building.

Q. Oh, I see, the FBI came up to your place of employment and invited you to come down to the Federal Building here for questioning; is that correct? A. That is correct.

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Q. About what time of the day did they come? A. They came before lunch.

Q. Before 12 o'clock? A. That is right.

Q. Who were the members of the FBI who came up to your place and asked you to come down for questioning? A. Mr. Cahill and Mr. O'Brien.

Q. I didn't get the first name? A. Cahill, C-a-h-i-l-l.

Q. Did you accompany them down to this building? A. Yes, I did.

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Q. Where did you go when you got here? A. To the 29th floor.

Q. Was the stenographer present? A. No.

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Q. Were you asked questions by both of these gentlemen? A. Yes.

Q. Were you asked questions by anybody else? A. No.

Q. Besides these two FBI representatives? A. No.

Q. And while you were being asked questions, did these FBI representatives take notes? A. Well, they didn't take continuous notes; they recorded pieces of the conversation.

Q. They had pieces of paper in front of them? A. Yes.

Q. And from time to time you would notice that they were writing? A. Yes.

Q. As you went along with certain aspects of your story; is that right? A. Yes.

Q. Did you notice what they were writing? A. No, I did not.

Q. Do you know whether or not what they wrote fairly represented what you said at that time?

Mr. Saypol: I object to that. If the witness said he didn't know what they were writing, how can he (373) answer that?

The Court: Sustained.

Mr. E. H. Block: I will withdraw it.

Q. Now, how long did you stay in that building, when you were—in this building, when you were first brought down for questioning by Mr. Cahill and Mr. O'Brien? A. I stayed until after lunch, about 2.30, 3 o'clock.

Q. And did they ask you, amongst other things, about your knowledge of Julius Rosenberg? A. Yes.



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Q. Did they ask you whether you knew Morton Sobell?  
A. Yes.

Q. Did they go into some detail about your possible connections with these gentlemen? A. Yes.

Q. How long would you say you were subjected to questioning continuously from these two FBI agents on that day? A. I would say three to four hours.

Q. Did you tell them substantially the same story that you are telling in court today? A. Yes, I did.

Q. Did you discuss this case with anybody outside of Government officials? A. I did not.

Q. Did you ever hire a lawyer to represent you? A. Yes, I did.

Q. When did you hire him? A. It was about a week (374) after the first meeting with the FBI.

Q. Who was the lawyer? A. Mr. Fabricant.

Q. Herbert Fabricant? A. That is correct.

Q. Of 401 Broadway? A. I believe that is the address.

Q. And is he a partner of O. John Rogge? A. That is correct.

Q. And do you know the other members of the firm? A. I know a Mr. Goldman.

Q. Robert Goldman? A. Goldman, Fabricant, Rogge.

Q. Do you know Murray Gordon? A. Gordon. There were four names.

Q. Does that refresh your recollection as to who the members of that firm are? A. Yes.

Q. Do you see any of them in court now? A. There is Mr. Fabricant (pointing).

Mr. E. H. Block: Identifying Mr. Fabricant.

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Q. Did you see him in court when you came in this morning? A. I saw him this morning, not in the court, no. I didn't see him in the courtroom here.

Q. Did you see him before you went on the stand? A. Yes.

Q. Where did you talk to him? A. In a room outside.

Q. Did you pay the Rogge firm any fee? A. Yes, I did.

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Q. Were you afraid of anything that you hired a lawyer? Were you afraid of any crime that you may have committed, that you hired a lawyer? A. Well, I thought this was an important enough—

Mr. Saypol: Just a moment. Lawyers are hired for other purposes besides in connection with crimes.

The Court: Objection overruled.

Answer the question. A. (Continuing) Well, I knew this was an important enough thing, that I might need legal advice. I talked—I engaged the lawyers after I had spoken and given my story to the FBI, and not under his advice.

Q. Your conscience was clear, wasn't it, after you had told the story to the FBI? A. Yes, it was.

Q. You didn't consider you did anything wrong, did you? A. I wouldn't say that.

Q. Well, did you do—



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Mr. E. H. Block: I withdraw that.

Q. 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. I did not.

Q. Well, did you have in your mind what particular crime you may have committed when you went to a lawyer? (376) A. Well, I know I had discussed a matter concerning the transfer of such material and I knew that that was not legal, it was not a legal matter.

Q. As a matter of fact, from your own story on direct examination, you rejected all overtures on the part of anybody to try to enlist you in stealing information from the Government; isn't that correct? A. Well, I didn't reject them. I went along. I never turned over material, but I was part of it, I mean, it was part of the—I was part of discussions concerning it until 1948.

Q. Did you at any time tell Rosenberg that you were not interested in turning over any material to him? A. I did not.

Q. Did you at any time tell him that you would turn over material to him? A. Well, I said that I might and I didn't say I would not turn over information, I said that I might.

Q. You didn't, though? A. I did not.

Q. And your actions are what you meant to convey to him as speaking louder than your words, isn't that right, during the entire period from 1944 to 1948? A. My words were speaking than my actions.

Q. Well, your actions indicated—at least they do now—that you did not turn over any material? (377) A. That is correct.

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Q. And don't you consider that that was your answer to any overtures that were made to you? A. I am sorry, but I don't understand the question.

The Court: Neither do I.

Mr. E. H. Block: All right, let me clarify it.

Q. You testified that at various times you were asked to turn over certain confidential information? A. Yes.

Q. And you never did turn over that confidential information, did you? A. That is correct.

Q. None whatsoever? A. That is correct.

Q. Now, as the years went by, right from 1944 through 1948, didn't you have in your mind to say to the Rosenbergs, to Mr. Rosenberg or to Mr. Sobell, "Look, I am not giving you any information. Get wise to yourself, I don't want to do it"? A. I wouldn't say that.

Q. You wouldn't say that? A. No.

Q. Let me ask you: Did you ever sign a loyalty oath for the Federal Government? A. I did.

Q. When? A. I think it was sometime in 1947. I don't remember the time or the time of year.

Q. Do you know what that oath provided? A. What do you mean, as a penalty or as just—

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Q. No, do you know the contents of the oath you signed and swore to? A. Not completely, not right now, no.

Q. Did you know it at that time? A. I know generally what it referred to, but I don't know the specific wording.

Q. In substance? A. In substance, I know.

Q. What do you think you signed? A. I signed a

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statement, saying that I was not or had not been a member of an organization that was dedicated to overthrow of the Government by force and violence. I don't remember whether the statement specifically mentioned the Communist Party or not, but at least it said I was not a member of an organization that believed in the overthrow of the Government by force and violence.

Q. At the time you verified that oath, did you believe that you were lying when you concealed your membership in the Communist Party? A. Yes, I did.

Q. So you have lied under oath? A. Yes.

Q. Were you worried about it? A. Yes.

Q. Were you worried about it in 1946? A. I think I was always worried about it.

Q. And you were worried about it in 1947? A. Yes.

Q. And were you worried about it in 1948? (379) A. Yes.

Q. Did there come a time when you had intimations that you were under investigation by the Federal Government, concerning your membership in the Communist Party? A. Well, the only intimation I had actually was that question of my being followed to New York, I do know that. I believe it was my mother who was asked some questions by the FBI. I had no idea whether it was routine or as a result of the loyalty oath, but I did not know of any investigation regarding that matter.

Q. Well, you know, or don't you, that when a Federal employee takes service in the Federal Government he either is investigated before he is appointed or, as in the past years, he is investigated almost immediately upon his employment; do you know that? A. Yes, immediately or some time later.

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Q. And you understood that to be the practice? A. Yes.

Q. So that when your mother was being queried about you, didn't you have an understanding that the FBI or some other Government agency was inquiring about your political affiliations? A. No, not necessarily.

Q. It didn't enter your mind? A. Oh, yes, but it wasn't a conclusion on my part, because I know that many people whom I knew or thought were not members of any (380) such organization were also investigated, so this, to me, was either routine or connected with that.

Q. Well, didn't you know that only suspects were investigated? A. I wouldn't say that, no.

Q. You don't believe that to be the case? A. I don't believe that to be the case.

Q. Did you hear from any of your friends or from anybody outside of your mother that queries were being made about you in 1948? A. No, I don't recall any such statements.

Q. At any rate, you were fearful, were you not, that the Government might find out that you were a member of the Communist Party? A. Yes.

Q. And you were also fearful about the oath that you had taken? A. Yes.

Q. Which was an absolute lie and perjurious; isn't that correct? A. I knew the oath, yes.

Q. You also knew that you were guilty of perjury, did you not? A. Well—

Mr. Saypol: It would seem to me that that might follow on some formal procedure. It is not for this witness to answer.

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The Court: Well, he can ask him whether he knew. If he doesn't know what perjury is or doesn't know the legal technicalities, he will simply answer it.

(381) A. (Continuing) Yes, that was what my answer was going to be. I didn't realize it was perjury as such. I knew I was lying under an oath.

Q. Did you follow the Carl Marzani case? A. I beg your pardon?

The Court: I didn't hear the case.  
Mr. Saypol: That is objected to.

Q. Did you follow the Carl Marzani case?

The Court: I will overrule the objection.  
Did you follow it?

A. I knew of it. I didn't follow it.

Q. The papers already had printed about the fact that there was a Government employee who was being prosecuted for perjury, for giving false statements to the Government; isn't that right? Did you so understand it?

Mr. Saypol: I object to the question as to form. It is inaccurate.

The Court: I will overrule the objection.  
Is that the fact or isn't it the fact?

The Witness: Well, it was something like that.

Mr. Saypol: Just a moment, please. May I press my objection. That is not the fact as a matter of law.

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The Court: I overrule your objection. I am going to ask him whether he knows or doesn't know.

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The Witness: I know that the case involved his membership as being a Government employee and being a member of the Communist Party.

The Court: But you do not know the details?

The Witness: I do not know the exact details, no, sir.

Q. At any rate, would the publicizing of that case have any bearing upon your fear, which you say you had since 1948, at the time you signed the loyalty oath? A. No.

Q. Didn't intensify your fear at all? A. I don't—

The Court: He has answered it. Let's get on.  
Mr. E. H. Block: I would just like to press him on it, if I may.

The Court: Did it intensify your fear?

The Witness: I don't think so, no.

Q. You don't think it had any effect? A. It didn't have any intensification.

Q. Were you also aware that the Government of the United States was making more intensive investigations than they had ever made before, concerning the political affiliations of Government employees? A. Yes.

Q. Did that intensify your fear? A. Well, actually not. My fears were of that nature and this (383) didn't intensify it to any greater extent.

Q. Would you say that your fear was a great one? A. No—that is hard to define.

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Q. Was it a little one? A. I don't know how to define my fear.

Q. You can't evaluate it?

The Court: Did you have a fear?

The Witness: Yes, I knew that I had done this thing and I thought it might be determined by authorities.

Q. As a matter of fact, didn't you leave the Government Service to try to get a job in private industry because you were afraid that you might be prosecuted for perjury, because of the false oath that you gave the Government? A. Well, that is jumping a step. One of the reasons for leaving was the fact that such and such investigations were being performed and I didn't like the political atmosphere, therefore, in Washington, but it had nothing—I mean, there was no specific thing I knew that more intensive investigations were being carried on, which made it more likely that it would be best that I do leave. That was not the entire reason for my leaving.

Q. But would you say that that was one of the substantial reasons, amongst others, for your leaving the Government? A. I could say, yes.

Q. Now, when you were interrogated by the FBI (384) 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.

Q. You felt that the Government had something over you, didn't you? A. I couldn't tell; I thought, yes, perhaps.

Q. But that entered your mind, didn't it? A. Yes.

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Q. And was that one of the considerations which impelled you to tell the story that you told to the FBI men in June 1950?

Mr. A. Block: July.

Q. July, I beg your pardon. Whenever I referred to June recently in these last two or three minutes, I meant July 1950. A. Well, partly yes, I felt that I had this information, I had performed these activities; I didn't know what information the FBI had; I had no idea. However, I felt that I didn't want to fight the case; I didn't feel that it was my duty to. I hadn't approached the FBI in advance, because I felt that there were implications to even my bringing up the subject. However, when they came to me, I, after a short talk, I freely told them of the story, and since I felt there might be no reason to hide it, as they might know about it anyway, however, I felt that the only course I could take was to (385) tell the complete story, which I did.

Q. It wasn't out of any sense of patriotism that you told the FBI the story? A. Well, in a sense, yes.

Q. You just told us that the fear that you had did have something to do with your telling that story? A. Yes, but I felt—

Q. It was to save your own skin, wasn't it? A. No, because I didn't know what would happen.

Q. Didn't you want to ingratiate yourself with the FBI and the authorities?

The Court: Wait a minute, wait a minute. You are asking a lot of questions and this witness

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doesn't get a chance to answer. Let's answer the first question about saving your own skin.

A. No, because I didn't know what would happen to my skin even when I told the story; I had no idea of what would happen to me the next minute or hour, so why—the question wasn't raised and I knew of nothing I was doing that would save my skin.

Q. Is that the reason you went to Mr. Rogge or Mr. Fabricant? A. I knew that I would need legal advice. I had already told the story.

Q. Did the representatives of the FBI, at the time they questioned you for the first time in June 1950, say (386) anything about the fact—July 1950—say anything about the fact that you had signed a loyalty oath? A. I don't recall that specific question.

Q. Would you say they didn't? A. No.

Q. They may have? A. They may have, yes.

Q. Did they say to you that they either knew or suspected that they knew you were a member of the Communist Party? A. Yes.

Q. Did they say to you, either in specific words or by some suggestion or intimation, that you could be prosecuted for perjuring yourself by giving a false loyalty oath to the Government? A. No.

Q. You understood, however, did you not, that that was a present danger at the time you were interrogated by these two FBI agents? A. Yes.

Q. Now, tell us just what these FBI men told you that first time in July 1950, about what they had on you, as to being a Communist or anything concerning an oath; just

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that general subject matter. A. Well, they told me nothing. They did say that they thought they had reliable information to the effect that I was a member of the Communist Party. They also told me they had information to the effect that I had given material for purposes of espionage, but they mentioned (387) nothing as to what such information might be, in any way.

Q. Now, when you came down to this Federal Building with these two FBI men for the first time in July 1950, did you come down by automobile? A. Yes.

Q. In the car that was driven by one of the FBI men? A. Yes.

Q. Just three of you came down? A. That is correct.

Q. And did you have any conversation with them in the automobile? A. Regarding this matter?

Q. Regarding the matter that you were going to be questioned about. A. No, only that I said, "Well, what is that all about?" And they said that it was a very serious matter and that I might be of help to them period.

Q. Is that all they told you? A. That is all.

Q. Before you got to this building, was the name Rosenberg mentioned at all? A. No.

Q. Was the name Sobell mentioned at all? A. No.

Q. Now, when you got to this building, you say you went up to the 26th floor? A. 29th.

Q. 29th floor, and were you then given a seat? A. Well, we went into a small office.

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Q. Private office? A. A private office.

Q. Now, on the 29th floor, did you notice a lot of desks, one behind each other, running quite some distance; did you notice that? A. No, I did not.

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Q. You were ushered immediately into a private office; is that correct? A. Yes.

Q. Was there a table there? A. Yes.

Q. How many chairs were there? A. Well, there was more than one table. There were at least two. I think they were one next to the other, and there were two, three—were at least three chairs next to them, and some cabinets.

Q. Did these two FBI representatives then sit down at one of the tables? A. We all sat around the tables.

Q. Was there anybody else in the room when they began to query you? A. No.

Q. Did anybody come in the room during the approximately three hours, three and a half hours, while you were being questioned, from noon to about 3 or 3.30 that day, in the middle of July 1950? A. Well, someone brought in sandwiches; a few people looked in. I don't believe that anyone came in, other than the two agents, and on some occasions, periods, one or the other went out of the room.

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Q. Now, who spoke first after you got into that room? A. I don't remember which it was.

The Court: Aren't you, Mr. Block, spending an unusual long time on this subject?

Mr. E. H. Block: I don't think so, your Honor.

The Court: I want you to go ahead and exhaust it, but not—I think you are going into the minutest detail on this question. You are trying now to

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establish a motive on his part for telling this story.

Mr. E. H. Block: That is correct.

The Court: I believe that you are going into too much detail, as to who spoke first, and things of that character.

Mr. E. H. Block: I wasn't going to bore the jury with every minute detail of what happened during those three hours, but I have got something in mind, your Honor. Otherwise, I assure you that I wouldn't be asking these questions.

The Court: Well, will you bear in mind what I have said; and I trust to your good judgment that you will expedite this particular phase of your examination.

Mr. E. H. Block: I certainly will, and thank you very much.

Q. You didn't speak first did you? A. I don't believe so.

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Q. Well, what was the first thing that was said by one of the FBI agents when they began to ask you questions? A. Well, the first things they brought up was the fact that they brought me down to discuss with me the question of espionage against the United States Government; that they had information that I was involved in such an espionage, and—

Q. When—I am sorry, I beg your pardon. A. (Continuing) I said to them, I was not. I assume that they were

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referring to Rosenberg; and they didn't say Yes and they didn't say No, and they continued to ask me questions.

Q. So one of the first things that you said to the FBI agents was that you were not in espionage? A. That is correct.

Q. That you were not engaged in espionage at any time; is that correct? A. That is correct.

Q. When was the question of your Communist Party affiliation brought up? A. It was some time later, I would say, maybe half to three-quarters of the way through our questioning, their questioning.

Q. And when was the question of your loyalty oath brought up? A. Well, I don't remember that they specifically mentioned the loyalty oath at all. I didn't say they did.

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Q. Now, you have testified this morning for a number of hours. Did you tell those FBI agents at that time everything that you have told us here this morning? A. Well, all that I could remember at the time, yes.

Q. Were you asked when Rosenberg met with you? A. Yes.

Q. And did you tell those FBI agents at that time that Rosenberg met with you in Washington, in June 1944? A. No, I did not.

Q. Now, you testified that you were approached—at least you testified on direct—that you were approached

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by Rosenberg for the first time in June 1944, at your home, to become interested in espionage; right? A. That is correct.

Q. Were you shocked when you were asked that? A. When I was asked—

Q. Yes or no? A. Yes.

Q. And did that incident stick in your mind since that time? A. The incident, yes.

Q. Did the date stick in your mind? A. No.

Q. Did the year stick in your mind? A. Not the year particularly, no.

Q. When did you first refresh your recollection that it was around D-Day in 1944? A. Well, in continuing (391a) to think about that first meeting an attempting to tie the date down, I at first said to the FBI that it occurred a relatively short time after I had moved into the apartment, which was in about September of 1943. I had told them that it was not a few months after—I at the moment did not recall. However, upon later recollection, I recall a particular incident that occurred during Mr. Rosenberg's visit, things that were said, which would tie the date down.

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Q. Just to recapitulate for a moment, if I may. 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.



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Q. Do you know how many months had elapsed between September and June of the following year? A. Yes, I do.

Q. About nine? A. Yes.

Q. You didn't tell him that? A. Well, I told him—

Q. It was a few months? A. I told him it was later. It wasn't during the first period that we had been in the apartment. I was trying to recall it in terms of the beginning of the apartment and that was my first reaction in attempting to remember the time. There were other factors I recalled later.

Q. At any rate, you didn't mention the year 1944 at all, 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.

Q. At least that is one incident we find out where there is some variation between what you told the FBI agent at that time and what you told here in court.

(393)

Mr. Saypol: I object to that because on the contrary the witness's testimony is substantially to the same effect.

Mr. E. H. Bloch: Well, you know what I am laying the basis for, your Honor.

The Court: Yes.

Mr. E. H. Bloch: I have to convince your Honor about certain things before I ask for the production of certain documents and I am trying to do that.

The Court: I don't think you have done it yet.

Mr. E. H. Bloch: Pardon me?

The Court: I don't think you have done it yet.

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Mr. E. H. Bloch: I am certainly trying to do it and that is the reason I am trying to be as precise as I can.

Q. Do you know whether or not the Rosenbergs ever lived in Washington, D.C.? A. I don't know. I don't know of it.

Q. Have you a brother? Have you a brother? A. I have a brother, yes.

Q. What is his name? A. Louis.

Q. Did he live in Washington at any time? A. No.

Q. Did he ever visit you in Washington at any time? A. No. May I amplify? I have another brother. I had one who died in—

(394)

Q. I am sorry, I beg your pardon. At any rate, did you have a deceased brother who lived in Washington? A. He did not.

Q. Did you have a deceased brother who visited you in Washington in the year 1940? A. I believe he did.

Q. Now, did you ever go to any swimming pools in Washington during the hot season? A. Well, yes.

Q. Have you a recollection of meeting Julius Rosenberg and his wife, Ethel Rosenberg, at a swimming pool in Washington in the summer of 1940? A. I do not.

Q. It doesn't mean a thing to you? A. No.

Mr. E. H. Bloch: Will you bear with me for one second, your Honor. I wonder whether the Court would declare a recess now?

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The Court: All right. We will take our afternoon recess at this point.

(Short recess.)

Q. Incidentally, you are the sole support of your wife and two children, isn't that correct? A. That is correct.

Q. And you have always—

The Court: I can't hear you, Mr. Bloch.

Mr. E. H. Bloch: I am sorry, your Honor.

Q. You are the sole support of your wife and two children? A. That is correct.

(395)

Q. And you were in 1948? A. Yes.

Q. And in 1947? A. Yes.

Q. And in 1946? A. Well, my wife worked—

Q. Until— A. She worked in 1947 for awhile.

Q. Since then she hasn't worked? A. No.

Q. And has not been gainfully employed? A. That is right.

Q. And that was true in 1950, isn't that right? A. Yes.

Q. And that is true today? A. Yes.

Q. Now, when you were first brought down for questioning by the two FBI agents, you mentioned, in or about the middle of July 1950, do you remember whether Julius Rosenberg had already been arrested? A. I think he was, yes.

Q. Would that refresh your recollection as to precisely when you were brought down here? A. Well, I know the approximate date because our plant went on

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vacation soon after that. I think they went the first two weeks in August, and this occurred just prior to that.

Q. I am sorry, I didn't get that. A. The plant at which I worked went on vacation, I believe it was the first two weeks in August, and this meeting with the FBI took place just prior to that.

Q. And after the arrest of Julius Rosenberg? (396) A. Yes.

Q. And you had read about this case even before the arrest of Julius Rosenberg, had you not? A. Which case?

Q. This case, the case that we are in court about. A. Yes, I read it.

Q. Do you remember reading that David Greenglass had been arrested? A. Yes.

Q. A month before? A. Yes.

Q. Now, after the interview, I am talking about the first interview, were you fearful that you might be prosecuted by the Government of the United States for perjury? A. Yes.

Q. And did you want to clarify your thinking on that point by getting the advice of a lawyer? A. No.

Q. Now, when for the first time did you see a member of the John O. Rogge firm? I believe you said it was Herbert Fabricant. A. I would say about a week after the first interrogation.

Q. Did you know at that time either by reading in the newspapers or through some other media of communication that the John O. Rogge firm represented David Greenglass? A. I did not.

Q. But you know it now? A. Yes, I do.

Q. When did you find that out? A. The day I went

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(397) to see the firm I was told by the lawyers that they were in that position.

Q. I am sorry. How many times in all did you go down to consult with one or more of the partners in the Rogge firm? A. Well, I saw them that first day we went down. I went there maybe about two more times. I don't recall. I went down a short time after that, and one other occasion when I was coming here to testify before the grand jury. I went down to see them and we went over to the court house together.

Q. Did you go over your story with your lawyers at that time? A. Yes.

Q. Did you tell them anything about having taken a loyalty oath? A. Yes.

Q. You did? A. Yes.

Q. At the first conference? A. Yes.

Q. And were you given advice about the legal consequences of having falsely sworn to the Government of the United States? A. No. They just told me that I had committed perjury. I didn't ask them—I knew that there were—what the approximate penalties were from reading the cases but we didn't discuss the matter.

Q. What cases did you read? A. Some of the perjury cases.

Q. What ones? A. Well, the testimony before committee (398) of Congress, for instance, where perjury was involved. I don't remember any specific one actually.

Q. You knew that entailed a jail sentence? A. Yes.

Q. Have you ever been arrested for perjury? A. I have not.

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Q. Have you ever been indicted for perjury? A. I have not.

Q. And you have never been convicted of perjury? A. No.

Q. Did Mr. Rogge or any of the members of his firm come over with you to this building to confer with any representatives of the United States Government at any time? A. Yes.

Q. When? A. Well, actually they didn't come over to confer. I was called by Mr. Lane's office prior to the grand jury appearance and I asked whether my lawyer could come along. He did come and stay for part of the questioning.

Q. Was that the only time a member of that firm came over with you? A. No. He came over I think on another similar occasion when they were questioning me, when Mr. Lane's office was questioning me.

Q. Do you remember when Mr. Lane questioned you? A. Well, it was—I could perhaps think about it.

Q. Well, please think about it. That was only last (399) year, wasn't it? A. Yes, it was—the grand jury was sometime in August of 1950.

Q. And you considered that an important occasion, didn't you? A. Yes.

Q. You can't tell us when? A. The grand jury!

Q. No. When you were questioned by Mr. Lane. A. Just prior to the appearance at the grand jury.

Q. Well, now, give us your best recollection of when it was? A. It was—

Q. I am sorry, you looked at me quizzically. So I didn't know whether that meant— A. It was in the second week of August. It was after the vacation or during

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—it was still during my vacation, that period, that I appeared before the grand jury.

Q. Did you go out of town for vacation? A. Yes.

Q. In 1950? A. Yes.

Q. With your wife and children? A. Yes.

Q. Was that after you had consulted the Rogge firm? A. Yes.

Q. And prior to the time that you appeared before the grand jury? A. Yes.

Q. And prior to the time that you were interrogated by Mr. Lane, almost immediately before you went in to the grand jury, is that right? A. Yes.

Q. How many days elapsed between the time Mr. Lane (400) questioned you and the time you testified before the grand jury? A. I believe it was the same day.

Q. The same day? A. Right close to it, because I came back from vacation, I was called back and I was to testify the day—the next day. I didn't testify the first day. I returned the next day. So it was right there.

Q. Did you notify the authorities that you were going on vacation? A. Yes, I did.

Q. Were you subpoenaed before the grand jury? A. I was asked to come.

Q. Pardon me? A. I was asked to come.

Q. Were you ever served with a subpoena? A. I was not.

Q. Were you served with a subpoena to appear in court today? A. No, I was not.

Q. You testified voluntarily before the grand jury without any compulsion, isn't that right? A. That is correct.

Q. And you likewise are testifying today in this trial without any coercive process? A. Yes, that is right.

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Q. (Continuing) Ever having been served upon you, is that correct? A. That is correct.

By the Court:

Q. Were any promises made to you in return for your (401) testimony before the grand jury or in court? A. Absolutely none.

Q. Were you told by anybody connected with the Government that you would not be prosecuted for any offense you might have committed? A. I was never told that. I never asked and I was never told that. There was no indication ever given me, any statement made to me.

Mr. E. H. Bloch: I am sorry. I can't hear.

The Witness: There was no statement to that effect ever given to me. In fact I was told that there were no promises to be made, nothing—the Government would make no statement in regard to what would happen to me.

By Mr. E. H. Bloch:

Q. The fact that you were under arrest or indicted? A. That is correct.

Q. For any crime? A. That is correct.

Q. Did you entertain any hope or do you now entertain any hope that by implicating these defendants the Government may not institute any proceeding, criminal proceedings against you? A. No.

Mr. Saypol: I object to the form of the question if the Court please.

The Court: I will overrule it.

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Mr. Saypol: Will you Honor hear me?

The Court: Yes.

Mr. Saypol: I object precisely to the use of the word implicate. The witness has given a narrative story in his testimony as to incidents in which he participated, as to what he heard and saw. The legal conclusion, implication, is the prerogative of the jury, and that is the basis of my objection.

The Court: On that objection I will sustain it. I will reword it.

By the Court:

Q. Do you have any hope—is that your question? Does he presently have a hope?

Mr. E. H. Bloch: I am sorry, there should have been two questions. Did he at that time when he testified before the grand jury?

The Court: Reword it without the implication.

Mr. E. H. Bloch: All right.

By Mr. E. H. Bloch:

Q. Did you at the time you were first interrogated by the FBI or at any other time when you were queried by Government officials, entertain any hope that if you told a story in which you said that Julius Rosenberg and Morton Sobell tried to recruit you in espionage work, that the Government would go easy on you or would not prosecute

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(403) you criminally for any crime you may have committed?

Mr. Saypol: I object to the form of the question. May I state the reason? In the use of the quoted words, told a story.

Mr. E. H. Bloch: I didn't mean to make that implication.

The Court: All right, we will change that to mean, testified as you did today.

Mr. E. H. Bloch: That is right.

A. Well, from the first time that I was approached by the FBI I decided I would tell the whole complete story. I had no idea at the time of what would happen to me. Frankly, I didn't know whether I would be arrested the same day, and to this day I don't know what is going to happen, and I decided that purely on the basis that I would tell the whole truth and at least in the future I would not be subjected to any perjury or any misstatements, and I would at least tell the truth, and hope in that way, at least that by taking that course I would at least come out in the best way. I could see no other course but to tell the truth.

Q. When you say, and I am referring to the last few words of your long answer, hope that you might come out the best way, will you be specific about that and tell us what you mean? A. Well, it is difficult to define because (404) I don't know what is going to happen to me. I only know and I knew it from the first day I was questioned by the FBI, that I must tell the whole truth.

Q. But you say—I am sorry, I don't want to interrupt you, even though I think you are a little long-winded.

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Mr. Saypol: I move to strike it out, that last comment, if the Court please.

The Court: Strike it out. Are you finished with your answer?

The Witness: Well, —

The Court: Go ahead.

The Witness: I certainly have hopes, to use the same terms, that the best will happen to me.

The Court: Well, you certainly do hope that nothing will happen to you?

The Witness: Yes, that is correct.

Q. Now, you had merely the most casual relationship or acquaintanceship with Julius Rosenberg during your student days, isn't that right? A. Yes.

Q. And you didn't see him, you say, from the time of your graduation in 1938? A. That is correct.

Q. Until June 1944? A. That is my recollection.

Q. That is a period of approximately six years, isn't that correct? A. Yes.

Q. You had never written him any letters? A. No.

(405)

Q. He had never written you any letters? A. No.

Q. You had never met him either in New York or Washington or elsewhere and engaged in any conversation with him, is that right? A. That is correct.

Q. Talking about these intervening six years? A. That is right.

Q. Now did you have any telephone conversation with him during the six-year period? A. No.

Q. And then you say he telephoned you sometime in the

*Max Elitcher—for Government—Cross*

early part of June 1944 and asked to come to see you, is that right? A. Yes.

Q. Do you remember what time it was that he telephoned? A. Yes. It was after work. It was prior to my dinner or supper, I would say.

Q. Well, I don't know when you eat, and I don't think the jury does, so I wish you would be a little more specific. A. I would guess the time was somewhere around six o'clock.

Q. You hadn't eaten your dinner as yet, had you? A. That is correct.

Q. How long after you say Rosenberg called did he come to your house? A. Well, not a long time after. We had our dinner and he came after. So it would probably be in the next hour or two.

Q. Would it refresh your recollection if I told you (406) that Rosenberg had dinner with you at your house that night in Washington? A. Would it refresh—no, no, he did not.

Q. You don't remember what you ate that night? A. 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.

The Court: Keep your voice up.

Q. How many rooms did you have in that apartment at Delaware Avenue—is that right, Delaware Avenue? A. That is right. A living room, kitchen and a bedroom.

Q. About what time would you say Rosenberg came? A. Sometime around eight o'clock.

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Q. And your wife was present? A. Yes.

Q. Did you have any plans for that night? A. No, not that I remember.

Q. Did your wife stay in the living room when Rosenberg came and you began to converse? A. Yes.

Q. How long did she stay with you and Rosenberg? A. Well, we talked perhaps fifteen minutes, a half hour. We just discussed our work, marriage, children, just odd topics. We also—there was mention made at that time of the fact that D-Day had just come a short time (407) before and Rosenberg mentioned that he had had a drink with some friends in celebration of this and also—

Q. 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.

Q. All right, continue.

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 events of D-day.

Q. Of course, all patriotic Americans celebrated D-day, did they not? A. Yes.

Q. Now, not having seen him for six years, he then came into your apartment, had a conversation with you and your wife about general things, marriage. Did you talk

*Max Elitcher—for Government—Cross*

about your old college days together? A. No—perhaps; I don't know. There was nothing specific about that part of the conversation.

Q. Do you remember specifically any subject that (408) you discussed while your wife was present outside of those you have already mentioned? A. No, I can't right now.

Q. 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. 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.

Q. You didn't talk outside the apartment, did you? A. No.

Q. Did you have an automobile at that time? A. Yes.

Q. Did you drive Rosenberg any place after he completed his visit? A. I did not.

Q. Did you ever drive Rosenberg any place in Washington? A. No.

Q. Did you drive him to Union Station that night? A. I did not.

Q. That is clear in your mind, isn't it? A. Yes.

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. Is that correct? A. That is correct.

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Q. Now I would like you to tell us what you said after Rosenberg said what you have said he said on direct examination. What did you reply? A. Well, I told him



*Max Elitcher—for Government—Cross*

I would see about it. I didn't say I would not engage in this activity; I would think about it. He had raised the question about bringing the material to New York and I said, "I can't make any trips to New York on my own without my wife's knowledge. It is just impractical." However, he was not put off by this and said, "Well, we will see about it and if you have anything, you bring it up," and I said "O.K., I will see." I don't believe I said I would bring anything to him. I said "I will consider it, and if something comes up and I feel I should bring it, I will."

Q. Did you mean what you said? A. Yes, I did.

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. By his conversation he built up to this giving of information, telling about the Russian war effort, getting my reaction to it, my saying "yes, they are doing a good job."

Q. Now you at that time were working in the Navy Building? A. Yes.

Q. Now when you checked into the Navy Building in (410) the morning of your working day, you had to check a clock? A. I signed it.

Q. Were you searched? A. No.

Q. When you came in? A. No.

Q. When you went out was the same procedure followed? A. Well, if you had a package it had to be checked. You were not searched. There was no search made of the person.

Q. There were security regulations in force, however,

*Max Elitcher—for Government—Cross*

at your place of employment in the Navy Building in Washington in 1944, were there not? A. Yes.

Q. And you as well as employees like you were compelled to reveal any package or packages or letters or any matter when they checked out at the end of the working day, isn't that correct? A. Yes. Either you had a pass for the material or it had to be observed by the guards.

Q. So that is it not fair to say that you and employees like you in similar positions were under surveillance? A. Yes.

Q. It wasn't very easy, was it, to get a package out of the Navy Building? A. Well, it could be done, I am sure.

Q. You said, did you not, if you took a package out it had to be revealed and disclosed to the security guards at the entrance or exit, isn't that right? A. That is correct.

The Court: It could be taken out without revealing it?

(411)

The Witness: I am sure, yes.

Mr. E. H. Bloch: I am sorry, I didn't hear the Court's question.

(Question and answer read.)

Q. You mean if you stole it? A. Yes.

Q. If you secreted it in your pocket? A. Yes.

Q. But you certainly couldn't take out any bulky package, could you, without it being visible to the security guards? A. Yes—I didn't get that, I am sorry. I mixed

*Max Elitcher—for Government—Cross*

the question up. It would be difficult to get out a bulky package, yes.

Q. Now then, Rosenberg left about what time in that first meeting after six years in June 1944? About what time? A. Around 9:30.

Q. So he came about eight and your wife was present for about a half hour and then you and Rosenberg continued to discuss these matters you have testified to for about an hour, is that your testimony? A. Well, not exactly. When we were through my wife came in and we spoke a little bit more and then he left.

Q. About what time did he leave? A. I was say it was nine-thirty. I am not sure.

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 (412) half hour, probably less. It was relatively short. What was said was sort of compressed. It was gone over—there was no stretching out the discussion. So it took less than a half hour, I would say.

Q. Now you have already testified and told us what was discussed while your wife was present. Then your wife left at your suggestion, which was as you say in response to Rosenberg's request that you two speak alone? A. Yes.

Q. Now, after your wife left did Rosenberg come right to the point and talk to you about the possible espionage work, or getting information from your employer? A. Well, he started out with this discussion of the Russian war effort and how well they were doing, but they could be in a much better position militarily if information wasn't being denied. He sort of built up to it, talking

*Max Elitcher—for Government—Cross*

about that; my saying that they are doing a good job. It was both a discussion—

Q. How long would you say that part of the conversation lasted? A. A few minutes.

Q. About as long as it took you to tell the Court and jury about it now? A. I would say a little longer.

Q. About five minutes? A. No.

Q. Well, how long? Give us some idea. A. A few minutes; say three or four; less than five minutes.

(413)

Q. Three or four, less than five minutes? A. Yes.

Q. Then did Rosenberg lay it on the line to you and say, "Here, brother, now I want you to steal information from your employer"? Is that what he said?

Mr. Saypol: That is not the testimony.

The Court: That is right. I will sustain that objection. And I want you to know, ladies and gentlemen of the jury, that evidence comes from the mouths of the witnesses; it doesn't come in the form of a question.

Q. Well, did he after the five-minute period ask you to get information from the United States Government? A. Well, I will say this: it was near the beginning of the conversation that he introduced it; he went on to say that other people were contributing. He himself was looking for people to contribute, and then got to the stage of asking whether I would be willing to do so. He may have mentioned security measures before he actually posed the question to me. It was all in continuity.

*Max Elitcher—for Government—Cross*

Q. Did he mention anything about security measures?  
A. I mean his own security. Not security—

Q. Did he mention anything about surveillance under which you were? A. Yes.

Q. In your employment? A. No, there was no question raised or no mention made of how this material was to be taken out, no instruction given, but it was your responsibility to get. I mean if I were to agree to take information out, to get it, there was no discussion of the means of doing that.

Q. Have you told us now substantially everything that was said at that June 1944 meeting at your house? A. Substantially, yes.

Q. You have covered every important part of the conversation, is that correct? A. Yes.

Q. Was there any question of money raised? A. No question of money raised.

The Court: Are you almost through, Mr. Bloch?

Mr. E. H. Bloch: Pardon me?

The Court: Are you almost finished.

Mr. E. H. Bloch: I am trying to do this chronologically, your Honor, and I can't say that I will be honest with the Court if I say I am almost through. I really don't know. I am going to try to be as precise as possible, but this witness has covered a lot of ground. I think it is incumbent upon me to cover the same amount of ground in the minimum.

*Max Elitcher—for Government—Cross*

(415)

By Mr. E. H. Bloch:

Q. Now, when after the June 1944 meeting did you meet Rosenberg next? A. Oh, I recollect that I met him next in New York, later that summer when my wife and I visited New York and because of his invitation to call him and perhaps have dinner with him or with other classmates we did call him and he arranged this meeting with other classmates.

Q. And where did you meet? A. We met at 42nd Street and Eighth Avenue.

Q. And I believe you testified you went to a restaurant? A. Yes.

Q. And how many people were in the party? A. About five or six; five.

Q. Well, please tell the jury who were present and who dined together? A. William Mutterperl.

Q. Was he a classmate of yours? A. Yes. His brother whom I had not known before, myself, my wife, Rosenberg. I believe that is all.

Q. Was Mrs. Rosenberg there? A. No, she was not.

Q. Then you ate together? A. Yes.

Q. Did you discuss anything except general topics at that time? A. No.

Q. Your wife was present? A. Yes.

Q. When did you finish eating? A. What was that?

(416)

Q. When did you complete your meal? A. I don't recall the hour.

*Max Elitcher—for Government—Cross*

Q. Approximately? Nobody expects you to know exactly. A. About 6 o'clock.

Q. About 6 o'clock. A. It was early evening.

Q. Then did you and your wife leave? A. No.

Q. Did you stay with anybody in that crowd? A. Yes, we all, and another person was called—I believe it was by Mr. Rosenberg, Joel Barr.

Q. Was he a classmate of yours? A. I don't remember whether he was a classmate. I knew him from school.

Q. You met him as casually as you met Rosenberg at school? A. Yes. He had dinner with us and we all went up to the apartment of this Joel Barr.

Q. Where was that? A. On Broadway. In the 90's on Broadway.

Q. So in a sense it was a reunion of college students, is that right? A. Yes.

Q. Or of alumnae? A. Yes.

Q. Then did you and your wife leave? A. No. After that we went on. Mr. Barr suggested that we visit a friend of his who lived in Greenwich Village and we went down, Rosenberg, myself, Mutterperl and my wife went down to Greenwich Village and we visited him. He entertained (417) for a short time. Then we broke up.

Q. When you say "him," do you remember the name? A. Seran, I don't remember his first name.

Q. Was he also a classmate of yours in C.C.N.Y.? A. I hadn't met him. I didn't know him.

Q. You don't remember him at all? A. No.

Q. Did you have a couple of drinks there? A. No. He played the guitar and played some music on a phonograph.

Q. Then you and your wife left? A. Yes.

*Max Elitcher—for Government—Cross*

Q. So it is fair to say that the second time you met Rosenberg it was a social gathering? A. Yes.

Q. Of college classmates? A. Yes.

Q. Is that right? A. Yes.

Q. Now, when was the third time that you met Rosenberg? A. I met him—

Q. I am sorry. May I withdraw the last question. Now, at that second meeting where you all went out to dinner together did you have any conversation with Rosenberg which related to the conversation that you say took place at your house in Washington in June 1944? A. No.

(418)

Q. None whatsoever? A. I don't recall any.

Q. All right. Now, when was the next time that you met Rosenberg? A. Well, in the summer of 1945. I had testified that I came to New York and called him and we were desirous of a place to stay, and he invited us to stay at his apartment.

Q. Now, he did not invite you to come to his house, in June of 1945, did he? A. In June?

Q. You said, was it in June 1945 or in the summer of 1945? A. In the summer of 1945.

Q. Do you remember what month? A. I believe it was about August.

Q. August, all right. August of 1945, you came up here to New York and then you telephoned him? A. Yes.

Q. You telephoned him at his house or at his place of business? A. At his house.

Q. At his house? A. Yes.

Q. About what time? A. It was late in the evening.

*Max Elitcher—for Government—Cross*

Q. And that telephone call of yours was not through any prearrangement, was it? A. No.

Q. You had not seen Rosenberg in almost a year; isn't that right? A. That is correct.

Q. But you were here in a so-called strange city, at least this was not your home, and you wanted a place (419) to stay for yourself and your wife; is that correct? A. That is correct.

Q. And that was the reason you called Rosenberg? A. Well, he had, on both the previous visits, sort of invited us to call him at any time. He might even have suggested we could stay there on some visit. It was purely a gracious invitation.

Q. Generally the kind of invitation people usually convey to each other? A. Yes.

Mr. Saypol: I will object to that and ask to have it stricken, because I don't know about generally kinds of invitations, your Honor.

The Court: Overruled.

Mr. E. H. Bloch: I will consent. It is not important.

Q. At any rate, within a day or a week or a month prior to the time that you came here in the summer of 1945, Rosenberg hadn't said to you, "Call me up, I want to see you; get in touch with me"; had he? A. No.

Q. And when you called him up, it was for the purpose of finding a place to sleep for yourself and your wife? A. That is correct.

Q. And Rosenberg said to you, "Come on up. My wife

*Max Elitcher—for Government—Cross*

is away in the country"; is that what he said? A. That is correct.

(420)

Q. And he extended the hospitality of his house to you? A. That is correct.

Q. At least to the extent of giving you a bed? A. That is correct.

Q. And, as a matter of fact, he had to sleep on a couch? A. No.

Q. Did he sleep in the apartment? A. There was a bedroom. My wife and I slept on a Hollywood bed that was in the living room.

Q. I see. All right. Now then—

The Court: What is a Hollywood bed?

The Witness: Just a sort of mattress without front and back, not a regular bed.

Mr. E. H. Bloch: Without a back, your Honor.

Q. At any rate, you came there and you and your wife slept? A. Yes.

Q. Did you leave, you and your wife leave the following morning? A. Yes.

Q. And that takes care of that visit; is that right? A. Yes, sir.

Q. Is that correct? A. Yes, sir.

Q. When was the next time you saw Rosenberg? A. Well, in September—

Mr. Saypol: Just a moment. When Mr. Bloch says "Is that all that happened?" Does Mr. Bloch mean—

*Colloquy of Counsel*

(421)

Mr. Bloch: I didn't say that. I said, "That takes care of that visit."

Mr. Saypol: There were conversations that he has testified to—

The Court: I can't hear you, Mr. Saypol.

Mr. Saypol: I say, there were conversations that he testified to on direct, that took place, and I don't want the witness misled or any impression created that now in his cross-examination he is leaving something out that wasn't testified to on direct.

The Court: I think your observation is a sound one.

Mr. E. H. Bloch: If the Court please, I submit this is cross-examination and I don't have to be bound by this witness' story that he gave on direct, neither do you, or neither does the jury.

The Court: No, no, let us have no argument.

Mr. Saypol, I don't want to hear any more.

Mr. Saypol: I won't address myself to the Court unless your Honor permits me.

The Court: Mr. Bloch, I don't want to hear any more. The point is, you want to leave that particular topic, but you have not asked the witness, as I understand it, "Have you told us everything that you said to Rosenberg and he said to you?"

(422)

Mr. E. H. Bloch: I did not ask that question.

The Court: Very well.

Mr. E. H. Bloch: My questions speak for themselves, your Honor. I am not trying to be abstruse here.

*Max Elitcher—for Government—Cross*

The Court: Proceed.

Mr. E. H. Bloch: I hope I am clear.

By Mr. E. H. Bloch:

Q. Now, when was the next time that you saw Rosenberg? A. In September of 1945, when he—

Q. And that was about a month after this visit at his home, where you and your wife stayed over? A. Yes.

Q. Where did that take place? A. At my home in Washington, at 247 Delaware Avenue, S.W.

Q. And did Rosenberg call you? A. Yes.

Q. Did he ask to come over? A. Yes.

Q. Was that in the late afternoon or early evening that he called? A. That was morning.

Q. About what time? A. I can only guess the time. It was—we had just risen. My wife was not dressed as yet when he called. It was about 10 o'clock, I would say. We slept later. It was a Saturday, I recall.

Q. It was a Saturday? A. Yes.

Q. September 1945; is that correct? A. That is correct.

(423)

Q. How many hours were you working for the Navy Department—how many hours per week were you working— A. Well—

Q. Just a second. Let me ask the question before you answer it. How many per week were you working for the Navy Department in 1945? A. I believe we were working over 48 hours. This was after the war and the hours had been cut down.

Q. You are sure of that? A. Yes.

*Max Elitcher—for Government—Cross*

Q. Now, as a matter of fact, for many years during the war you were working on a 48-hour basis? A. Yes.

Q. When did that 48-hour work week become lessened? A. It was after the war, around the end of the war, but I don't recall the date or the time, I mean, when it was exactly.

Q. You say that in September 1945 you were not working 48 hours? A. Well, I don't believe so.

Q. Is that your testimony? A. Yes.

Q. You are sure of that? A. Fairly positive. I can't be absolutely certain. I believe that is so.

Q. Well, if you have any doubt, I want you to think about it. A. Well, to my recollection, yes, we ceased to work 48—overtime. Now, when that ceased, I don't know, I can't remember that exactly.

Q. Well, at any rate, is it your testimony—let's (424) get this clear—is it your testimony that in September 1945 you were not working on Saturdays for the United States Government? A. I do not know. I only testified that I was not working that day. I don't know whether—when we ceased to work on Saturdays. I just recall this occasion. I know that it must have been a Saturday; he came in the morning and I know that after he left I went shopping, and I am positive that it a Saturday. As to whether we were working then Saturday, I don't know. I could have been off anyway.

Q. That is what I wanted to ask you. While you were working for the Navy Department on a 48-hour week basis, did you ever take off Saturdays, outside of your vacation period? A. I don't remember. I could have. I took off any time that I thought I wanted to take time off, or had some need for taking time off.

*Max Elitcher—for Government—Cross*

Q. We are trying to get your best recollection. A. Yes.

Q. I don't expect you to be a wizard. A. Yes.

The Court: All right, I think we have the answer. Proceed.

Q. That is your best answer? A. Yes.

Q. You may have taken off some Saturdays? A. Yes.

Q. Now, what time do you say Rosenberg got to your house? A. 10 or possibly 11 o'clock in the morning. (425) It was in the morning.

Q. In the morning. Now, in these two meetings in Washington, at your house—there were two; is that correct? A. That is correct.

Q. Did Rosenberg ever at any time tell you that he had been assigned to do some work for the Government or for his employer, Emerson Radio Company, in Washington? A. I recall something like that, but I don't remember it now. It strikes a familiar note, but I don't recall him saying that.

Q. Well, will you say that he did not tell you that he was down in Washington— A. I couldn't say.

Q. —in Washington on business? A. I couldn't say that he did not tell me.

Q. How long did Rosenberg stay at your house that Saturday morning in September 1945? A. Well, he stayed only a short time. My wife had an appointment to have a picture taken at our union headquarters for some committee on which she was working, and she was dressing, and when she was dressed we had to leave, and I told him so. He spoke to me and he sort of wanted to continue speaking to me. I told him, if he wants to continue the



*Max Elitcher—for Government—Cross*

conversation that he had to come with me, that I had to take my wife to the union hall; she wanted to be driven; and he first didn't want to, he didn't want to be seen at (426) this union place, but I said to come up if he wants to speak to me. He finally agreed and I drove him up to that place, the union hall.

Q. Where was the union hall to which you belonged?  
A. On 18th Street, off Connecticut Avenue, just off Connecticut Avenue.

Q. That is northwest? A. Northwest.

Q. And you lived in northeast, didn't you? A. Southwest.

Q. Southwest. A. That is correct.

Q. You had to come across the Capitol Street in order to get there; is that right? A. Well, actually I live right near the Capitol.

Q. I happen to know where that is. A. Yes.

Q. Now, how long did it take you to get from your house to the union hall by automobile? A. It couldn't take more than 10 minutes.

Q. How long did Rosenberg stay at your house and talk to you before you all went out to get into the automobile to get to the union hall? A. I would say no more than 15 minutes; quite short. He wanted to continue—

Q. And during that period of 25 minutes—

Mr. E. H. Bloch: I withdraw that.

Q. After you reached the union hall, did Rosenberg (427) then leave you? A. No, he stayed and talked with me for a short time downstairs.

Q. Downstairs? A. That is correct; and then—

*Max Elitcher—for Government—Cross*

Q. Did he go up to the union hall with you? A. When we were through, I said, "I am going up to see my wife's picture being taken." He had some time; he didn't have to leave at the moment, and I said, "Well come upstairs"; and he did walk upstairs with me, and I believe the pictures were being taken at the time; and then—

Q. Did you—I am sorry. I didn't want to cut you off.  
A. (Continuing) When the pictures were taken, the three of us went downstairs and he got onto a trolley which passes the union hall and which goes to Union Station. I believe he said he was going—he was taking the train.

Q. Now, the union at that time was located one flight up in that building, was it not? A. Yes.

Q. And did you introduce Rosenberg at that time to any fellow union members of yours? A. I did not.

Mr. E. H. Bloch: Pardon me. Will you bear with me just one second? There seems to be some question.

May I clarify something?

Q. Is it your testimony that when Rosenberg came (428) to visit you that Saturday morning in September 1945, he said to you, either directly or by language which made his intention unmistakably clear, that he did not want to be seen at the union hall? A. Yes, I believe that that was the words he used or it was the intent of what he was saying, that he preferred not to go up there. I told him that it seemed to me all right, that there was no reason why he couldn't.

Q. And he did go with you? A. Yes, he did.

Q. And there were other people there? A. Not many.

*Max Elitcher—for Government—Cross*

There were just—there weren't many people there, just those who were having their picture taken.

Q. And how many people would you say were there?

A. Six, a half a dozen, perhaps more; the photographer.

Q. Together with members of the staff of the union? A. I don't know if there were any other members.

Q. Didn't you know the members of the staff of the union? A. Yes, but I don't remember whether there were any, I mean, I don't remember anybody that was up there at the time except my wife.

Q. At least there were five or six union people there? A. Yes.

Q. And Rosenberg came in, normally, with you— A. Well—

(429)

Q. —to the union hall did he not? A. Well, yes—well, no one saw him. We both just stood outside; we were just watching this picture.

Q. You didn't make any attempt to secrete your presence, did you? A. Oh, no.

Q. And Mr. Rosenberg didn't make any attempt to hide his presence there? A. I don't know whether he did or not.

Q. Well, you saw him; he was alongside of you, was he not? A. Yes.

Q. Now, after your wife had her picture taken at the union hall, you said the three of you then went downstairs again? A. Yes.

Q. And shortly thereafter Rosenberg took some trolley car?

The Court: I didn't hear that.

*Max Elitcher—for Government—Cross*

Q. And shortly thereafter, Rosenberg took some trolley car and went away; is that right? A. That is correct.

Q. Now, did you have any discussion with Rosenberg at the union hall, proper? A. I believe that downstairs we did speak, at the end of the conversation concerning this matter, saying to come and see him. I don't recall during—how the conversation was split, at my house and at the union hall. We did stay downstairs just a (430) few minutes and I was anxious to see my wife and her picture being taken. Then we went upstairs.

Q. Now, you say the entire automobile trip took about 15 minutes; is that the approximation? A. 10.

Q. 10 to 15 minutes? A. Right.

Q. And you say Rosenberg was in your house before you all went out, about how long? A. 15 minutes.

Q. Now, during the 15 minutes that Rosenberg was in your house, were you making preparations to go to the union hall with your wife? A. I believe that I was dressed; I might not have been completely dressed. I remember that my wife was not and she was in the bedroom preparing herself. I do recall that we didn't have much time. Rosenberg did want to speak to me and I said, "If you want to"—I mean, "If you want to, you can come along with me," and, as I say, he first didn't want to, but then he agreed to come.

Q. And you said that, knowing full well that your wife would be present in the automobile? A. Yes, we didn't discuss anything in the automobile.

Q. That's right; and you didn't have any idea in your mind that he wanted to discuss anything that was secret or clandestine or furtive, did you? A. Well, I believe he had started the conversation at my home concerning what

*Max Elitcher—for Government—Cross*

I had testified to before; in the car, (431) we were just traveling and then we spoke again; we finished the conversation at the union headquarters.

Q. Now, while your wife was in the car did you discuss any subjects that you have mentioned, with respect to what took place at the first conversation in your house, in June 1944, or the few minutes' conversation, that you say you had with Rosenberg before you and your wife and Rosenberg went out to the car? A. No.

Q. When you got to the union hall, how long did you stand with Rosenberg and discuss matters? A. A very short time.

Q. How long? A. Not more than five minutes.

Q. Was your wife present? A. No, she had gone up.

Q. Now, when was the next time that you saw Rosenberg? A. Well, I don't recall the date when I visited him at his home, in the exact month. I only know the general area. There was also—

Q. Wait, wait. Let's take one incident at a time. A. All right.

Q. Now, when was the next time, as near as you can refresh your recollection? A. Well, it was sometime in the winter of '46, '47. I know it was cold.

Q. In other words, that was at least four or five months later? A. Oh, yes.

Q. Subsequent to this incident of September '45, (432) that you have just told us about? A. Yes.

Q. Now, were you invited by him to come to his house by specific invitation? A. Wait. May I correct what I said? I said it was the winter of '46, '47, and I had seen him in '45. I don't want to confuse it.

Q. Wait, wait.

*Max Elitcher—for Government—Cross*

The Court: He had seen him in Washington in September of 1945.

Mr. E. H. Bloch: That is correct.

The Court: He saw him again in the winter of 1946 or early part of '47.

Mr. E. H. Bloch: That is what I thought his testimony was.

The Witness: Yes.

Q. In other words, about four or five months later; is that right?

The Court: No, almost a year later.

Mr. E. H. Bloch: Oh, a year and four months later, I am sorry.

Q. A year and four months later? A. Yes.

Q. Had you seen him at all during that intervening period? A. I don't recall any period.

Q. When you came to his house, did you call him up on the telephone? A. Yes.

Q. Had he given you any specific invitation to come (433) to his house during that intervening year and a half? A. Well, it was a continuing invitation, as far as he was concerned. He had said that when I was, whenever I was up there, or whenever I wanted to discuss this matter of espionage—I mean, there was no restrictions laid against my coming to see him.

Q. Did you come to see Rosenberg in the winter of this last year, that you are talking about, for the purpose of discussing espionage with him? A. Well, yes.

Q. You voluntarily came up to New York, you say, for

*Max Elitcher—for Government—Cross*

the purpose of discussing espionage with Julius Rosenberg; is that right? A. Yes.

Q. When was this, in terms of days of the week? A. I don't recall.

By the Court:

Q. Was this after your talk with Sobell? A. Yes.

Q. Was it pursuant to your talk with Sobell? A. Yes.

By Mr. E. H. Bloch:

Q. Were you living in New York at the time?

Mr. Kuntz: We object to your Honor's question.

The Court: Upon what grounds?

Mr. Kuntz: On the ground, first of all, that it is leading; secondly, that it is incompetent, irrelevant and immaterial to the issues involved in this case.

The Court: Whether he did it pursuant to (434) Sobell's—

Mr. Kuntz: Calling for a conclusion as to the purposes.

The Court: Denied on all grounds.

Mr. Phillips: I think the use of the word "pursuant" is objectionable, if your Honor please.

The Court: Denied.

Mr. Saypol: Will your Honor suffer an interruption? I should like the record to be complete, to support your Honor's observation. The former cross-examination—I take it that is the basis for

*Max Elitcher—for Government—Cross*

the Court's helpful question—eliminates entirely the witness' testimony on direct as to the circumstances under which he saw Rosenberg.

Mr. E. H. Bloch: I object to this statement of Mr. Saypol's, because I believe it is for the jury and the jury alone to test the credibility of this witness.

The Court: That is correct.

Mr. E. H. Bloch: And to draw the reasonable inferences.

The Court: That is correct; and it is for the jury and the jury alone to test the credibility of the witness, and it is for the Court also to see to it that the jury is not in any way confused by the facts of the evidence; and so, where the Court is of—and I don't (435) want to intimate that Mr. Bloch is doing it deliberately—

Mr. E. H. Bloch: Thank you.

The Court: —where the Court is of the opinion the jury may not follow the sequence of events, the Court will not hesitate to call that to the jury's attention.

By Mr. E. H. Bloch:

Q. Now, where were you living at the time you called Rosenberg up, at the time of this last incident that we have come to? A. In Washington.

Q. And do you remember whether it was on a weekend? A. I don't recall, no.

Q. Did you come up with your wife? A. I don't remember the occasion, other than I was there and called him.

*Max Elitcher—for Government—Cross*

Q. I asked you whether or not you came up to New York with your wife? Now, that is a simple question. Did you or did you not? A. I don't remember.

Q. But you do remember the second visit some years before, where you did bring your wife up to New York? A. Yes; this was a meeting I was having alone with him.

Q. Well now, I want to ask you whether or not that refreshes your recollection as to whether or not your wife came along with you? A. No, it does not.

(436)

Q. How long did you stay in New York? A. I don't recall.

Q. Was it an hour? A. In New York?

Q. Now, look, if I ask you a question and you don't understand it, please don't hesitate to say that you don't. Nobody is trying to trick you here, let me assure you of that. A. Well, I stayed more than that, because I went up to his house and I spoke with him and I left. I visited New York many, many times from '46 to '48, on business. I came up—otherwise I was in New York quite often, so I don't recall the particular circumstances, but I was in New York the evening—I know I came up there in the evening to see him; it was in the evening; so therefore I would be there some time and I might have been there longer; I might have been continuing to another—to either a train or to some other place, I don't recall. I just recall the incident.

Q. Did you come up to New York on that occasion at the expense of the Government? A. I presume so, because I made most of my trips to New York on business, and therefore, for the Government.

*Max Elitcher—for Government—Cross*

Q. Well, was it a business trip? A. I don't recall.

Q. Was it a legitimate business trip for the (437) Government? A. I only made legitimate business trips for the Government.

Q. Well, if you made—if you only made legitimate business trips for the Government and you came up on Government expense, does that refresh your recollection as to whether or not you didn't come up to New York in the routine procedure and regular course of your duties?

Mr. Saypol: I object to that as to form.

A. I don't understand the question.

The Court: He doesn't understand it.

Mr. E. H. Bloch: All right, I will try to simplify it.

Q. You say you only made legitimate business trips?

A. That is correct.

Q. And every time you made—

Mr. Saypol: For the Government.

Mr. E. H. Bloch: I am sorry, of course, for the Government.

A. Yes.

Mr. E. H. Bloch: Well, he claims he never did anything illegally.

Q. And whenever you went on legitimate business trips, you had to make out certain vouchers for the Government? A. Yes.

*Max Elitcher—for Government—Cross*

Q. Didn't you? A. Yes.

(438)

Q. And you had to swear that the expenses that you incurred were incurred by you in the performance of the duties that had been assigned to you, in connection with traveling outside of Washington; isn't that right? A. Yes.

Q. And you received a per diem expense account? A. Yes.

Q. \$6 a day, I believe it was, at that time? A. Yes.

Q. Now I ask you whether or not that refreshes your recollection as to whether or not you came up to New York from Washington at the time of this last incident, at Government expense? A. I don't know how that would clarify it to me? I said I don't recall the particular circumstances of that visit.

The Court: All right now, is this a convenient place to break off?

Mr. E. H. Bloch: I think so, your Honor.

The Court: Very well.

Ladies and gentlemen, you are excused until 10.30 tomorrow morning; 10.30 tomorrow morning in the courtroom, but I suggest that you congregate there at 10.30 and relax there until 10.30 tomorrow morning.

(Adjourned to March 9, 1951, at 10.30 a.m.)

. . . .

(452) . . .

Max ELITCHER, resumed the stand.

Cross-examination continued by Mr. E. H. Bloch:

Q. I am going to stand all the way back here now so that it might help you in keeping your voice up. A. Yes, sir.

Q. Now, just to refresh your recollection for one moment, I think we had come to a point in my examination where we were talking about that visit or trip of yours to New York sometime in the latter part of '46 or early part of '47, when you came to Rosenberg's house? A. That's right.

Q. And I think I was questioning you as to whether or not your wife accompanied you? A. That is correct.

Q. Now, after this lapse from yesterday afternoon to this morning, have you done any thinking during that period? A. Yes, slight; I haven't thought about the subject.

Q. Can you now tell us whether or not your wife accompanied you at that time to New York? A. I don't recall, sir.

Q. Can you tell the Court and jury with definiteness whether or not on that trip you traveled at Government (453) expense? A. Oh, no, I don't recall. I know that I made numerous trips to New York at Government expense. In addition, I did come up on leave. I don't recall on what occasion that particular visit occurred.

Q. Now, do you remember being asked by Mr. Saypol on your direct examination yesterday the following questions in connection with this particular trip that we are talking about now:—

*Max Elitcher—for Government—Cross*

Mr. Saypol: Just a minute, Mr. Bloch. Excuse me.

Mr. E. H. Bloch: I am sorry, I will refer to the page.

Mr. Saypol: That's right; that is what I seek.

Mr. E. H. Bloch: Page 338 and 339.

Q. (Reading) "Q. What did you say to him and what did he say to you?"—

Mr. E. H. Bloch: It is all the way down the bottom of the page, Mr. Saypol.

Mr. Saypol: I have it.

Q. (Continuing) "A. Well, I called him and said, well, I was in the city on official business, I believe, I called him and told him I would like to see him and he said to come over."

Now, that was only yesterday; isn't that correct? A. That is correct.

Q. You gave that answer to Mr. Saypol's question, (454) that I just read? A. Yes.

Q. Now, I ask you again whether or not, having heard the question propounded to you by Mr. Saypol on direct, and the answer that you gave to that question, whether that refreshes your recollection as to whether or not you came up here on that trip on official business? A. No, I haven't been able to recall that for some time. This is not the first time that I had thought about the question or had been questioned concerning it. I have not been able to recall which, on what occasion it was. Otherwise I would have said so yesterday. That is why I said I thought it

*Max Elitcher—for Government—Cross*

was official business, because I made more trips on official business than any other way.

Q. Well, didn't you tell us that you made this trip for the purpose of discussing this espionage business with Mr. Rosenberg? A. Yes.

Q. And you say, despite that fact and despite the further fact that at or about that time you told Mr. Rosenberg that you were in a more receptive frame of mind, you nevertheless cannot tell the Court and jury, one, whether or not your wife accompanied you, and two, whether or not you came here on official business? A. That is correct.

Q. You are hazy about that, aren't you? A. No.

(455)

Mr. Saypol: That is argumentative, if the Court please.

Mr. E. H. Bloch: This is cross, your Honor.

The Court: Well, I know, but he has answered it.

Mr. E. H. Bloch: All right.

Q. Now, when you were first brought down for questioning here to the Federal Building by the two FBI representatives that you told us about yesterday, that was in June 1950? A. July.

Q. July 1950? A. July.

Q. Did the discussion or conversation between you and the FBI agents proceed by method of question and answer, as distinguished from a narrative form of statement by you, as to what you knew? A. Well—

Q. About the matter? A. It wasn't what you might say a formalized question and answer. They asked ques-



*Max Elitcher—for Government—Cross*

tions; I talked; they asked questions and I continued. It wasn't a direct answer to a question, as I remember it.

Q. Well, is it fair to say that you were asked questions and then you were given a high degree of latitude in continuing to respond, in unfolding your story? A. Yes.

Q. And you had plenty of opportunity to say what you thought was responsive to what the FBI agents were seeking to elicit from you; is that right? A. Yes.

(456)

Q. Nobody at that time tried to stop you in what you had to say? A. That is correct.

Q. Now, did you at that time tell the FBI agents anything about this conversation, which you testified about, with Sobell, while you were driving with Sobell from your home to Catherine Slip, and where you stayed in the car and Sobell got out, and where Sobell is alleged, according to your testimony, to have said to you, "Rosenberg said not to worry about Bentley," or words to that effect? A. I did not.

(457)

Mr. Saypol: Just a moment. I object to the question and ask that the answer be stricken. The question consists of a series of questions not related. It is not clear on the record as to what counsel refers to or what the witness refers to.

The Court: Did you understand the question?

The Witness: I believe so.

The Court: All right. I will let it stand.

Q. Well,—

*Max Elitcher—for Government—By the Court*

Mr. Saypol: Just a moment, please. I am not clear as to what it is the witness didn't tell the FBI.

The Court: All right. Re-read the question. (Question read.)

The Court: Now did you understand that question?

The Witness: I believe so.

The Court: And did you understand that counsel is directing your attention to a particular subject matter? He is asking you whether with respect to that subject matter you ever told the FBI anything about the matter that he indicates in his question.

The Witness: I believe I did.

Mr. Saypol: Here is one of the things that strikes me as incongruous about the question: there has been no testimony from this witness that Rosenberg and he talked about Bentley. He testified that he talked (458) with Sobell about that afterwards in the car. He didn't say that Rosenberg told him that.

Mr. E. H. Bloch: And I am not imputing anything like that.

Mr. Saypol: The question implies that. The question states that.

Mr. E. H. Bloch: I think the question is proper, your Honor, but I want to satisfy Mr. Saypol.

The Court: Now look, I want to tell you something: if there is something that you believe should be added at the end of your answer, which will explain in more detail for the Court and jury the

*Max Elitcher—for Government—Cross*

thought you are trying to get across to us, you ought to do so.

The Witness: All right. I don't have anything.

By Mr. E. H. Bloch:

Q. Let us try to make it as simple as possible. Did you mention the name of Bentley when you were first brought down for questioning in June 1950 to this building to the FBI agent? A. I did not.

Q. Did you tell the FBI agent anything about this automobile trip which you took with Sobell from his home to Catherine Slip? And that is the time you had just driven with your family from Washington? A. I did not. (459)

Q. You did not? A. No.

By the Court:

Q. Where did you say Catherine Slip is? A. Well, on the East Side Drive adjoining the Journal-American building.

Q. Is that anywhere near Monroe Street? A. Near Knickerbocker Village.

Q. Speak up. A. I now know it is near Monroe Street or Knickerbocker Village.

By Mr. E. H. Bloch:

Q. Now as a matter of fact, Catherine Slip is so near that Knickerbocker Village project that you can see it from Catherine Slip, can you not? A. Well, there are

*Max Elitcher—for Government—Cross*

buildings in the way. I don't know. At that time it was night and I hadn't any idea where I was anyway.

Q. You had been to Knickerbocker Village prior to that time when you went with Sobell in his automobile to Catherine Slip? A. I had been there prior, yes. But I had no idea where it was in relation to where I was then.

Q. It is a big development, isn't it? A. Yes.

Q. Now, at the time you were brought down here the first time for questioning and after the questioning proceeded the way you described and your answers were (460) not interrupted and so forth, did you sign any statement? A. Yes, I did.

Q. Who prepared that statement? A. Well, it was prepared by me but written by one of the FBI agents.

Q. See if we understand you correctly: You said in words to one of the FBI agents what you wanted to say and he wrote out what you told him to write out; is that correct? A. Yes.

Q. And the main body of the statement is in the FBI's handwriting but you appended your signature at the end? A. That is correct.

Q. Now, is there any other incident that you have testified to on direct examination and on cross-examination up to now which you did not disclose to the FBI at the time you made that first statement?

Mr. Saypol: I object to that question as to form.

The Court: I will sustain it.

Mr. Saypol: As a matter of fact, there were other things unrelated to this case that this witness told to the FBI.

*Maz Elitcher—for Government—Cross*

Mr. E. H. Bloch: Now I object to any statement.

The Court: I sustain it.

Q. Did you tell the FBI about the June 1944 incident?  
A. Yes.

(461)

Q. But you did not tell them that 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.

Q. Did you tell them about the next meeting after June 1944 that you had with Rosenberg? A. Yes, I did.

Q. You did tell them that? A. About the next meeting.

Q. Do you know which next meeting I am referring to?  
A. I remember my first testimony, yes. Tell me which meeting it was.

Q. Suppose you tell us now, what was the next time after June 1944 that you saw Rosenberg? A. In the middle of the summer at his home.

The Court: In what year?

The Witness: In 1944.

Q. Did you tell the FBI men at that first meeting about that summer incident? A. About the summer incident?

Q. Yes. A. Yes, I did.

Q. You told them that you came up to New York? A. Yes.

*Maz Elitcher—for Government—Cross*

Q. And that you had dinner with Rosenberg and (462) some other people? A. Yes.

Q. Did you tell them about the next time you saw Rosenberg? A. Yes.

Q. And do you remember the next time you saw Rosenberg? A. In the middle of 1945, yes.

The summer of 1945.

Q. Where was that? A. At his home.

Q. Is that the time you slept over? A. Yes.

Q. Did you tell the FBI man and was it incorporated in your statement that you came up here in the summer of 1945 and slept over at the Rosenberg home? A. I believe I did, yes.

Q. Are you sure? A. Yes. I don't recall everything in that statement. I told them of all these incidents and I believe I told them about that one too.

Q. After you signed that statement did you read it? A. Yes.

Q. That day? A. Yes.

Q. Did you read it at any time subsequent to that or did you read a true copy of it at any time subsequent? A. I don't believe I have looked at it since. I didn't look at it since, No.

Q. Was it ever shown to you? A. No.

Q. Did you ever discuss the contents of it with (463) anybody? A. The specific contents of that one?

Q. Yes. A. No.

Q. Well, when you signed the second statement wasn't there some reference to what you had said in your first statement? A. Yes.

Q. And when you discussed the third statement wasn't there some reference to what you had said in your second statement and your first statement? A. Yes.

*Max Elitcher—for Government—Cross*

Q. So that you did have the contents of that statement brought home to you after you signed it on that first day you came down here in June 1945? A. Well, it might not have been in the terms of what the statement said, but in terms of what I was telling and what I knew. References might have been made to the statement as things that were said.

Q. That is right. By whom?

Mr. Saypol: Let him finish, please.

Q. I am sorry. A. By the agent and by people in Mr. Lane's office.

By the Court:

Q. But after that first occasion when you read it and signed it, were you ever given that first statement again to read? A. No, not to read. There were refinements made in the first statement, and obviously (464) there were references made to it.

Q. But you were not handed the first statement? A. No.

Q. And have the first statement before you when you made the second statement? A. No.

Mr. E. H. Bloch: The only objection I want to make at this time is the witness's use of the word "refinement." The question whether or not it was a refinement or not—

The Court: It will stand.

Mr. E. H. Bloch: Or a substantial variation. I respectfully except.

*Max Elitcher—for Government—Cross*

By Mr. E. H. Bloch:

Q. Was that statement that you signed the first time you came down here physically before anybody who was discussing that statement with you subsequently? A. Oh, yes.

Q. Who had it before him?

The Court: I don't see the materiality of this.

Mr. E. H. Bloch: I am getting to something, your Honor.

The Court: I think you are going into unusual detail and I have given you wide latitude. What difference does it make if somebody else had it before him?

Mr. E. H. Bloch: If the Court please, I (465) don't hesitate to tell the Court, and I am sure the Court is keen enough to see it long before I even think about it, that I am trying to lay a foundation for showing a discrepancy between what the witness has testified to now and what he told the authorities on the previous occasions.

The Court: I assume you are trying to do that. You haven't shown it as yet.

Mr. Saypol: I move to strike that from the record as argumentative.

The Court: No, no. I have asked.

Mr. E. H. Bloch: It is a question of law now.

The Court: Now that is all I will have on the subject. I will have no more on the subject. I know what you are trying to do. I still don't see

*Max Elitcher—for Government—Cross*

how it helps if somebody else had the statement before him.

Mr. E. H. Bloch: Well, if the Court please, I am going to follow that up.

The Court: Please follow it up and bring this phase of it to a conclusion.

By Mr. E. H. Bloch:

Q. Who was the first one who suggested the name "Bentley" to you? A. I believe—

Mr. Saypol: Just a moment. I object to the question as to form. There was no suggestion. There (466) was a direct conversation.

The Court: I sustain that.

By the Court:

Q. Did anybody suggest Bentley to you, or did you state the name of your own volition? A. Well, I don't recall. I believe that someone during some interrogation said did I have anything to do with Bentley, but it wasn't in relation to this particular testimony that I gave about that trip.

By Mr. E. H. Bloch:

Q. Now, when that someone asked you whether you had anything to do with Bentley, had you already stated to the FBI anything about this conversation that you had with Sobell in his automobile where you claim that he said to you that Rosenberg had said that he wasn't worried about Bentley? A. I don't think so.

*Max Elitcher—for Government—Cross*

Q. In other words, the word Bentley or the name Bentley was projected into your mind by somebody either in the FBI or on the prosecuting staff of the United States Government, is that correct?

Mr. Saypol: I object to that.

The Court: I will sustain that.

Mr. E. H. Bloch: I respectfully except.

Q. Well, was that somebody who mentioned the name Bentley connected with the prosecutor's office? A. Yes.

(467)

Q. Who was it? A. I don't recall. I am sure it was one of the agents. It was during the questioning period.

Q. Well, in other words, you are now saying that it was a member of the FBI? A. Yes.

Q. It was one of the two agents who brought you down here the first time? A. I had been questioned by more than those two.

Q. I didn't say you weren't; I am just trying to direct your attention to try to refresh your memory as to a particular name now. A. I don't remember.

Q. Was it Mr. Norton of the FBI? A. No—I don't remember any of them.

Q. Do you know Mr. Norton? A. Yes, I do.

Q. Have you been questioned by him? A. Yes.

Q. Was it Mr. Harrington of the FBI? A. I don't remember.

Q. You don't remember who mentioned the name Bentley? A. That is correct.

Q. Do you remember when it was first mentioned? A. I do not.

*Max Elitcher—for Government—Cross*

Q. Pardon me? A. I do not.

Q. Do you remember when you first disclosed, to the authorities this particular conversation that you had with Sobell where the name Bentley was mentioned? A. Yes.

(468)

Q. Is that incorporated in your second statement? A. Which is my second statement?

Q. Well, maybe I ought to go back over that part of the testimony. Do I understand that you signed three statements? A. Yes.

Q. All right. Not when I say "second," I mean the second of those three. A. No.

Q. So that in the first statement you didn't mention this particular conversation where Bentley's name was mentioned by Sobell and in the second statement you didn't mention this particular conversation where Bentley's name was mentioned? Is that an accurate statement? A. That is correct.

Q. Now, after having called to your attention the fact that this Bentley name was not incorporated in your first or second statement, would that now refresh your recollection as to when you mentioned this conversation about Bentley for the first time to the authorities? A. I don't understand that.

Q. All right. When did you make the first statement? A. The first time I was called down here.

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.

*Max Elitcher—for Government—Cross*

(469)

Q. You made that first statement after you had consulted a lawyer, is that right? A. That is correct.

Q. After you had already retained a lawyer? A. Yes.

Q. That was Mr. Rogge's office? 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.

Q. Had you made that statement prior to the time you testified before the grand jury here? A. Yes.

Q. Does that refresh your recollection as to when you made your third statement? A. I made my third statement much later than my appearance before the grand jury.

Q. I am sorry, I thought you said the opposite. You testified before the grand jury and then you made a third statement? A. Yes.

Q. Let us go back for just a moment. When did you testify before the grand jury the first time? A. The middle of August.

Q. Did you testify on more than one occasion before the grand jury? A. Yes.

Q. How many occasions? A. Two times. Twice.

Q. Now, the first one was in August. I believe August 15th? A. 1950.

Q. After you came back from your vacation? A. Yes.

(469-A)

Q. When was the second time? A. About a month ago. Perhaps a little longer. About a month ago.

Q. About a month ago? A. Yes.

*Maz Elitcher—for Government—Cross*

(470)

Q. That would be January or February 1950, approximately? A. Yes.

Q. 1951, I am sorry. A. 1951.

Q. How many months or how many weeks or how many days after you first testified before the grand jury did you sign that third statement? A. It was sometime near the end of the year, the end of 1950.

Q. Just about three months ago? A. Well, at least that, yes.

Q. Now, when you testified before the grand jury for the first time did you mention the word "Bentley"? A. Well, I don't remember whether I actually testified to it before the grand jury, whether that question was asked. I had—

The Court: You had what?

The Witness: I had already told the FBI about this trip.

Mr. E. H. Bloch: I move to strike out the answer as not responsive.

The Court: I will let it stand.

Mr. E. H. Bloch: Well, I am going to ask it again, if your Honor please.

Q. I am going to ask you a very simple question. Did you mention the name Bentley at any time during your interrogation before the grand jury the first time you (471) testified before the grand jury?

The Court: Don't answer. It has been answered. He said he wasn't asked, but he had already told the FBI about it before.

*Maz Elitcher—for Government—Cross*

Mr. E. H. Bloch: I am not asking him—

The Court: It has been answered. Let us have no further argument.

Proceed Mr. Bloch. He said no he wasn't asked before the grand jury.

Q. And you didn't tell them? You didn't tell that name before the grand jury?

Mr. Saypol: That is repetitious.

The Court: He said he didn't tell it because he wasn't asked before the grand jury.

Mr. E. H. Bloch: I just wanted to get that in the record.

Q. Now, do you remember ever attending a social function at the Rosenbergs' house during Christmas week of 1947? A. 1946. I did attend one in 1946, if I may correct you.

Q. And do you remember particularly when that party was held? A. Yes. In Christmas week of 1946.

Q. Did you tell us anything about that visit to Rosenberg's house on direct examination? A. No.

Q. You forgot about that, didn't you?

(472)

Mr. Saypol: Just a moment. I object to that. The witness—

The Court: Yes, I will sustain that.

Mr. E. H. Bloch: I respectfully except.

The Court: He wasn't asked about it, if I remember, and it might have been nothing material



*Maz Elitcher—for Government—Cross*

to the Government's case. There is a certain inference in your question that he deliberately withheld it.

Mr. E. H. Bloch: I think if your Honor please, and with all due respect to your Honor that the jury has to determine whether his failure—oh, I am sorry, I will even be more specific: In cross-examination of the witness I was asking him particularly about certain meetings and he didn't state to the Court or to the jury about this particular meeting.

The Court: But I don't think you had ever gotten to that point. I think when you finished yesterday you were in 1945 some place.

Mr. E. H. Bloch: Well, if your Honor please—

The Court: Well, let us not argue.

Mr. Bloch: I see that we don't see eye to eye on it and I take an exception to your Honor's ruling.

The Court: I am not interested whether you see eye to eye with me on it. I have made a ruling. Please proceed.

(473)

Mr. E. H. Bloch: All right. I take an exception.

Q. Now, I ask you, was your wife present at the time you were at this social function at the Rosenbergs house in Christmas week or during Christmas week of 1946? A. Yes.

Q. Was it 1946? A. I am sure it was 1946.

Q. It is your recollection it was 1946? A. Yes.

Q. Were there other people present? A. Yes.

*Maz Elitcher—for Government—Cross*

Q. You didn't sleep over with your wife at the Rosenbergs that night, did you? A. No.

Q. Now, was there any other occasion where you were at the Rosenbergs' house attending some social function during Christmas week in subsequent years? A. No.

Q. Just that one time? A. Yes.

Q. But that you remember? A. Yes.

Q. Did you tell the FBI about that visit to Rosenberg's home? A. Yes.

Q. When? A. The first time.

Q. Did you ever meet Mrs. Ruth Greenglass at the office of your attorney? A. No, I did not.

Q. Were you ever introduced to her? A. No.

Q. At any time? A. No.

Q. And at any place? A. No.

Q. Would you recognize her if you saw her? A. No.

(474)

Q. Did you discuss the subject of your testimony or anything relating to the issues in this case with anybody including your wife, who is going to be a witness in this case, or it was suggested might be a witness in this case? A. Except for my attorney, no.

Q. Except for your attorney? A. No.

Q. You have never seen anybody who might be a witness? A. Oh, I have seen people who might be a witness.

Q. Were you introduced to them? A. No. I will answer that question as no.

By the Court:

Q. Do you know the defendant Greenglass? A. No, I don't. My answer is I don't know who is going to be a witness. That is all.

*Max Elitcher—for Government—By the Court*

Q. But you say you don't know the defendant Greenglass? A. No, I don't know Greenglass or his wife.

By Mr. E. H. Bloch:

Q. When did you first find out that your attorney Mr. Rogge and his associates represented Mr. and Mrs. Greenglass? A. The day I went to their office and asked whether—

Q. Who recommended you to Mr. Rogge's office? A. No one.

Q. Had you read about David Greenglass at the time (475) you first went down to consult with Mr. Rogge? A. Yes.

Q. Or Mr. Fabricant, as the case may be? A. Yes.

Q. Did you discuss his retainer in terms of his having represented or already having been retained as the attorney for Greenglass? A. No.

Q. Did it ever enter your mind that was something that should have been said about Mr. Rogge's already representing a defendant in this case?

Mr. Saypol: I object to that.

The Court: What is the relevance? I don't see its relevance at all. I will sustain it.

Q. Did Mr. Rogge tell you that David Greenglass was a defendant in this case? A. Well, Mr. Fabricant told me.

Q. That David Greenglass was a defendant in this case? Did he tell you that? A. The case was not mentioned as a case. They told me they were defending Mr. Greenglass.

*Max Elitcher—for Government—Cross*

Q. And at that first conversation with Mr. Fabricant was the name Julius Rosenberg mentioned, A. Yes.

Q. And was it brought home to your attention that Julius Rosenberg was the brother-in-law of David Greenglass? A. Yes.

Q. Now, at the time you went down to see Mr. Rogge, Mr. Rosenberg had already been arrested, had he not? (476) A. Yes.

Q. And Mr. Greenglass had already been arrested at least a month previous? A. Yes.

Q. Through the occasion? A. Yes.

Q. And had you read in the newspapers of the purported connection between David Greenglass and his brother-in-law Julius Rosenberg? A. Yes.

Q. And you didn't ask Mr. Rogge or Mr. Fabricant or any member of this firm anything about any duality—if I use any words that seem technical, correct me—any duality in representing you on the one hand and a defendant in this very same situation on the other?

Mr. Saypol: I object to it.

The Court: Overruled. He may answer.

A. Well, can I answer that in narrative form as to what happened?

The Court: Sure.

The Witness: Well, we went down to Mr. Rogge's firm with our recommendation. We got there and we were referred to Mr. Goldman of the firm, and Mr. Fabricant was called in too, and we told them what our position was, that we were attached—we had been questioned.

*Max Elitcher—for Government—Cross*

Q. When you say "we" you mean you and your wife?  
 A. Yes. My wife was with me. We wanted counsel in regard to some implication in these affairs (477) of Rosenberg. They told us then that they were employed by Mr. Greenglass, which was a great surprise to us. We almost left—we felt it was time to leave because there might be as you say a duality. The lawyers apparently went outside and discussed the matter and they came back and said they felt that they could handle our case if there was no conflict of interest, and we were quite happy to have them.

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.

Q. Prior to the time— A. No.

Q. You went down to consult with him and eventually retained him? A. No.

Q. Now, I think you told us on direct examination that just a few days ago you terminated your employment with the Reeves organization? A. That is correct.

Q. And you are presently unemployed? A. That is correct.

Q. Were you fired? A. Well, I was asked to resign.

Q. When was the first time that you had any knowledge or information that your employer was considering terminating (478) the relationship? A. Two weeks—

The Court: Go ahead.

The Witness: Two weeks prior to that.

*Max Elitcher—for Government—Cross*

Q. Did you buy a new automobile within the last two weeks? A. Yes.

Q. When you bought that automobile did you have any worry in your mind about any future prosecution by the Government against you?

Mr. Saypol: I fail to see the relevancy.

Q. Because of a possible charge of perjury?

Mr. Saypol: I fail to see the relevancy.

The Court: I will let him answer.

Mr. Saypol: Will your Honor hear me?

The Court: You say there is no relevancy. I am inclined to agree with you but I am going to let him answer.

Mr. Saypol: Will your Honor let me state on the record my objection? I think the cross-examination is taking a turn which is wholly unfair to the prosecution. First there is an implication that the United States Government recommends lawyers and witnesses to defendants.

The Court: Well you had better be prepared Mr. Saypol for many, many more implications by the defense in this trial. That is not unusual, but as I have told the jury before they are not to decide this case based on (479) inferences from questions, but from replies of the witnesses.

Mr. Saypol: Your Honor will remember that it was a man like Al Smith who once said you can stand getting some things but you can't get used to them. I don't think it is fair.

*Max Elitcher—for Government—Cross*

The Court: Yes. Alfred E. Smith also said let us take a look at the record.

Mr. E. H. Bloch: I assume your Honor is permitting the witness to answer.

The Court: Yes, I am.

The Witness: The question was whether I was worried? Yes, I was.

The Witness: The question was whether I was worried? Yes, I was.

Q. You bought a car nevertheless? A. Yes. I felt that it was no difference in money. If I was to be prosecuted I could transfer it into funds. If I was not, I would have the car.

Q. Did you pay cash for the car? A. No. It is on time payments.

Q. Did you pay any cash? A. Yes.

Q. Did you pay at least one-third of the purchase price? A. Yes.

Q. How much was the purchase price? A. About \$1900.

Q. So you did pay somewhere in the neighborhood (480) of over \$600 cash? A. Yes.

Q. Tell me, Mr. Elitcher, have you ever been treated by a psychiatrist? A. Yes.

Q. When did you first consult a psychiatrist? A. In the summer of 1947.

Q. Did you then undergo some treatment? A. I don't know what you mean by treatment.

Q. Well, I am using it in the very loose sense of the word. A. Yes.

Q. You went to a psychiatrist who was supposed to be a physician of sorts, dealing with mental disturbances.

*Max Elitcher—for Government—Cross*

Did he consult with you and discuss your problems with you and treat you the way a psychiatrist usually deals with patients who seek advice and guidance? A. Yes.

Q. How long did you continue being treated by a psychiatrist?

By the Court:

Q. Did the treatment consist of a discussion with the psychiatrist? A. Yes.

Q. It didn't include any so-called shock therapy or anything of that character? A. No, there was no therapy at all. No shock or other therapy involved.

By Mr. E. H. Bloch:

Q. How many times in all did you see a psychiatrist since 1947? A. Well, I saw a psychiatrist in Washington (481) for about a year. That was in the summer of 1947 to the summer of 1948, and I have seen one here for a similar period.

Q. When you say you saw a psychiatrist in 1947 and 1948, I think we would like to find out how continuous were those visits? A. Approximately twice a week excluding perhaps vacation and holidays.

Q. That was for an entire year? A. That is correct.

Q. And is it not a fact that at or about that period your wife also underwent psychiatric treatment? A. Yes.

Q. And do you know of your own knowledge how often she consulted a psychiatrist and was given treatment? A. It was either two or three times a week. Approximately the same treatment.

*Max Elitcher—for Government—Cross*

Q. 1947 and 1948? A. No. She had been going prior to that time.

Q. How long prior to that time? A. Almost six months prior to that.

Q. Now then there came a time of course in June 1948 or July 1948 when you left Washington with your family? A. Yes.

Q. And came up here to New York? A. Yes.

Q. And you have been a resident of Flushing (482) ever since, is that right? A. Yes.

Q. Now, when did you again get psychiatric treatment? A. Well, it was again in the summer of 1948—1949.

Q. About a year later? A. Yes.

Q. A year elapsed between the time you terminated going to a psychiatrist and getting psychiatric treatment in Washington and the time when you commenced here in New York? A. Yes.

Q. Getting treatment? A. Yes.

Q. In the summer of 1949? A. That is correct.

Q. And how long did you continue being treated by the psychiatrist? A. Until July 1950.

Q. And how often did you visit the psychiatrist during that latter period that you are talking about? A. Twice a week.

Q. How long were the sessions usually? A. Three-quarters of an hour.

Q. And how about your wife?

Mr. Saypol: Now I think at this stage I will object to it. I have allowed counsel—

Mr. E. H. Bloch: This is my last question.

Mr. Saypol: That is all right, but—

*Max Elitcher—for Government—Cross*

The Court: If it is the last question let us get it. (483)

Mr. E. H. Bloch: Be thankful that you are getting rid of me.

Q. Did your wife also resume her psychiatric treatment after she got back to New York? A. Yes.

Q. Did both of you go to the same psychiatrist? A. No. That is not done.

Mr. E. H. Bloch: Now I am through with this witness temporarily. I say temporarily because I don't want to make any request at this time with respect to the statements until I give my colleague here an opportunity to cross-examine. He made a list of things which I might not have brought out. So I hope your Honor will reserve to me the right to do that.

The Court: We will take a short recess at this point.

(Short recess.)

(484)

(Jury in box.)

The Court: Any cross-examination, Mr. Bloch, Sr.?

Mr. A. Bloch: No, I am not cross-examining this witness.

The Court: Very well.

Are you going to cross-examine, Mr. Kuntz?

Mr. Kuntz: Yes.

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*Max Elitcher—for Government—Cross*

The Court: You are going to cross-examine this witness?

Mr. Kuntz: Yes.

Cross examination by Mr. Kuntz:

Q. Mr. Elitcher, I believe that you told this jury that from 1939 to 1941 you and Sobell lived together a great deal at that time? A. Yes.

Q. I believe you also told this jury that between those dates, during that time, you worked for the Bureau of Ordnance, Navy Department? A. Yes.

Q. And Sobell also worked for the Navy Department? A. Yes.

Q. Bureau of Ordnance? A. Yes.

Q. Did similar work? A. Similar, yes.

Q. 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. During all that time, Mr. Elitcher, did Sobell (485) in any way offer you any documents belonging to the United States Government? A. No.

Q. Did Sobell, by word or action or intimation of any kind, suggest to you that you take United States Government material? A. No.

Q. Sobell was a studious sort of a fellow, was he not? A. Yes.

Q. He is today, is he not? A. Yes.

Q. And he has become known as somewhat of an expert in his line, has he not? A. Yes.

Q. As a matter of fact, up at General Electric he did very important work, did he not? A. Yes.

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*Max Elitcher—for Government—Cross*

Q. So that when you visited General Electric, you didn't only visit Sobell as a friend, but you visited him in connection with your work, did you not? A. No—I mean—visit him? No, the answer stands.

Q. You scientists were working on various projects for the United States Government, were you not? A. Yes.

Q. By the way, a great deal of Morton Sobell's work was research, was it not? A. Yes, I think so.

The Court: Speak up.

A. Yes, I would say so.

Q. And a scientist, in doing research, in order to do a good job for his employer or for the United States (486) Government or for himself, looks into every angle that might have some relationship to his work, does he not?

Mr. Saypol: I object to that.

The Court: I will overrule it.

Mr. Saypol: That is argumentative.

The Court: I will overrule it.

A. Yes.

Q. So that when Sobell asked you in Schenectady whether there was any material on certain phases of work, you took it that he was asking you as a scientist, did you not? A. No.

The Court: When was that in Schenectady, what year?

The Witness: '46.

Q. Sobell's job also for the Government was to get you personnel, was it not? A. No, not that I know of.

*Max Elitcher—for Government—Cross*

Q. Don't you know about that? A. Well—

The Court: Was it on that visit in Schenectady that Sobell asked you to see Rosenberg?

The Witness: Yes—no, not that one, but a visit.

Mr. Kuntz: I object to the interjection by the Court.

The Court: Your objection is overruled. I will ask questions whenever I think I ought to.

(487)

Mr. Kuntz: Well, it seems to—

The Court: You proceed. Let's not argue the point.

Q. Well, let's take that up; let's take that up. In June '44, you said you had a conversation with Rosenberg? A. Yes.

Q. He made proposals to you? A. Yes.

Q. You did not accept those proposals, did you? A. I—

Q. Did you accept them?

Mr. Saypol: Won't counsel give the witness a chance to answer?

Mr. Kuntz: Well, it is a very easy thing to answer whether a man accepted or not.

The Court: Give him a little chance to think.

A. Well, it is a difficult yes or no answer. I accepted, in that I didn't reject the idea, and I was going along with it, and I thought I might—

Q. You accepted—

*Max Elitcher—for Government—Cross*

The Court: Wait a minute.

Mr. Kuntz: I am sorry. When I am wrong I will admit it.

A. (Continuing) So it was I accepted, yes, but I qualified it.

Q. You accepted it, yes, but you qualified the (488) acceptance. A. That is correct.

Q. Well now, the invitation to you was to get Government documents, was it not? A. Yes.

Q. Now let's see whether you accepted it with or without qualifications. Did you go and get any Government documents? A. No.

Q. I am talking now about the '44 conversation? A. No.

Q. As the result of that '44 conversation, you did not, did you? A. No.

Q. Did you communicate in any way, after Rosenberg's conversation with you, with Sobell? A. Communicate?

Q. Yes. A. I spoke to him, yes.

Q. When? A. I spoke to him—I went on vacation with him in '44.

Q. I didn't ask you that. A. I spoke to him then.

Q. I asked you, right after you had the conversation with Rosenberg in early June '44, did you communicate in any way with Sobell? A. I don't recall any such communications.

Q. Did you check in any way as to whether Rosenberg, as you claim, connected Sobell in the conversation, did you communicate with Sobell to find out and check on it? A. I have said—

Q. Did you?



*Max Elitcher—for Government—Cross*

(489)

Mr. Saypol: Please let him finish.

Mr. Kuntz: No, I submit I am entitled to answers to my questions and not to answers that the witness may want to give to something else. I think that is a fair way to conduct the trial.

The Court: Will you answer the question?

A. Yes.

Q. You did communicate with Sobell? A. I spoke to him.

Q. I am talking about— A. I did not communicate.

Q. I am talking about right after the early June conversation, did you communicate with Sobell? A. No.

Q. Did you check with him as to whether he was, whether his name was properly mentioned? A. No.

Q. In that conversation? A. No.

Q. Did you write to him? A. No.

Q. About it? A. No.

Q. Did you telephone him about it? A. No.

Q. You waited for some three months to take a vacation of a week with Sobell; is that right? A. Yes.

Q. Well, you didn't take that vacation purposely to check on him, did you? A. No.

Q. So that any conversation you had with Sobell during that week was purely accidental, was it not, in relation to the subject matter of this case?

(490)

Mr. Saypol: That is not the testimony.

Q. Isn't that correct?

*Max Elitcher—for Government—Cross*

Mr. Saypol: That is not the testimony and I object to the question.

The Court: I will overrule the objection. I think the witness can answer.

Q. Isn't that correct? A. Will you repeat the question?

The Court: Reread the question back.  
(Question read.)

A. Well, accidentally in respect to time, yes.

The Court: What do you mean by that, "accidentally with respect to time"?

The Witness: Well, I had determined I would mention it when I saw him next. Now, if I didn't see him until a few months later, I would have mentioned it then.

By Mr. Kuntz:

Q. And when you did mention it, Sobell was angry, was he not? A. Yes.

Q. Afterward, you didn't see Sobell for some time, did you? A. I don't remember when I saw him next. It would have been for some time.

Q. Well, didn't you see him next up in Schenectady, in '46? A. Yes. I saw him prior to that time, too.

(491)

Q. You did see him prior to that? A. I saw him in '45.

Q. When? A. At his wedding.

*Max Elitcher—for Government—Cross*

Q. Did he say anything to you about getting documents from the United States Government? A. No.

Q. Did he ask you whether you had gotten documents from the United States Government for anybody else? A. No.

Q. Nothing was talked about United States Government documents, was it? A. No.

Mr. Saypol: Is counsel referring to the wedding?

Mr. Kuntz: Counsel will allow the record to stand as it is.

Mr. Saypol: Excuse me. I am sorry; I shouldn't have addressed myself to counsel. I address myself to the Court. Is counsel referring to the wedding as the place where there was no discussion about getting Government secret documents?

The Court: Do you understand—

The Witness: Yes, that is what I understood.

The Court: —that to be the fact?

The Witness: Yes.

Q. And then the next time you saw Sobell was in '46, up in Schenectady; is that right? A. Yes.

(492)

Q. Sobell didn't invite you up there, did he? A. No.

Q. Sobell didn't call you in between his wedding in '46, did he? A. Well—no, I don't believe so.

Q. Sobell didn't write to you between his wedding in '46, did he? A. No.

Q. Now, on each occasion that you had a conversation

*Max Elitcher—for Government—Cross*

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.

Q. Did I understand that what Sobell told you in '46 up in Schenectady was, "See Rosenberg"; is that right? A. Yes.

Q. The words, I mean, in substance; is that right, "See Rosenberg?" A. Yes.

Q. At the time that he said "See Rosenberg," did he ask you for any documents? A. Well—

(493)

The Court: Did he tell what to see Rosenberg about?

The Witness: Well, he said—yes, in regard to these pamphlets, as he questioned about these pamphlets, in relation to that he said, well, why don't you go see Rosenberg?

Q. Well now, Mr. Elitcher, you had told Sobell that the pamphlet that had been prepared was unimportant, did you not? A. Yes.

*Maz Elitcher—for Government—Cross*

Q. As a matter of fact, I understood you to say that you told Sobell the pamphlet wasn't even finished? A. Correct—no, I am sorry. That other pamphlets weren't important. This particular one was not completed.

The Court: I am confused now. What pamphlets are you talking about?

The Witness: Well, first he asked about reports, and I said they were unimportant. Then he asked about this particular Ordnance pamphlet, which is a complete description of the system, and I told him about it being not completed.

The Court: Was that important or wasn't it?

The Witness: That was important.

The Court: And what pamphlet did he ask you to see Rosenberg about?

(494)

The Witness: About that.

By Mr. Kuntz:

Q. That was a pamphlet that wasn't prepared yet? A. It wasn't completed yet.

Q. You hadn't seen that pamphlet, had you, since it hadn't been completed? A. No.

Q. The pamphlet wasn't available to be taken away from the United States Government as yet, was it? A. No.

The Courts: Did you know the contents of the pamphlet?

The Witness: The contents, no. There was—I knew what would be in such a pamphlet.

*Maz Elitcher—for Government—Cross*

Q. Well, did Sobell ask you in Schenectady what was going to be in that pamphlet, did he? A. No.

Q. But he said, "See Rosenberg"? A. Yes.

Q. And that you took to mean about this pamphlet, which was not yet prepared and which you would not in any event be able to take away from the United States Government; is that the pamphlet? A. Yes.

Q. Isn't it a fact, Mr. Elitcher, that Sobell, at Schenectady and later on, when he came to New York and started to work for Reeves, that he was in a position, an important position, overseeing work of others, in addition to doing his own work? A. I don't (495) know that to be a fact, at Schenectady.

Q. How about Reeves? A. Reeves, he was, yes.

Q. And didn't Morton Sobell tell you, Elitcher, that he was always on the lookout for young engineers, young students, who could fit into the work that he was doing? A. He told me that at Reeves, yes.

Q. At Reeves, I am talking about Reeves. A. Yes.

Q. As a scientist, isn't that what every scientist does when he is working on projects, looking for promising young men to work with him? A. I would say yes.

Q. Talk up, please. Let the jury hear you. A. Yes, I would say yes.

Q. By the way, you use the word "progressive." "Progressive" is also used in the scientific world as people with progressive ideas in science, isn't that it? Talk up? A. I hadn't answered. Yes.

Q. Let me recapitulate a little bit. Check me if I am wrong. For two years you and Sobell worked together and lived together in Washington and did secret Govern-

*Max Elitcher—for Government—Cross*

ment work; is that correct? A. Classified Government work.

Q. Well, classified, O.K. To me it is all the same, classified Government work. He didn't bring home any documents; he didn't ask you for any documents; is that right? A. That is correct.

(496)

Q. Then he went off to college; he wanted to study some more, did he not? A. Yes.

Q. He took a year out of his working life to go to Michigan, was it? A. Yes.

Q. And he took his master's degree there; is that correct? A. Yes.

Q. And when he graduated, when he got his master's degree, he went to work for General Electric, did he not? A. Yes.

Q. And up in in General Electric you knew he was doing important work, did you not? A. Yes.

Q. He never turned any document over to you? A. No.

Q. He never asked you for any document, outside of this unprepared pamphlet? A. That is correct.

The Court: I want to get one thing clear right here and now.

Mr. Kuntz: I am sorry, I didn't hear you.

The Court: Just a moment.

By the Court:

Q. Did I understand you to say on direct examination, and is it true or is it false, that Sobell asked you while

*Max Elitcher—for Government—By the Court*

he was employed at the Reeves Instrument Company, if you knew any engineering students whom it would be safe to ask for espionage material? A. Yes.

(497)

Q. Well, didn't I understand you to say on cross-examination that he had merely asked you for young engineering students who would be helpful in his work at Reeves? A. That was in addition. He had asked me that, too. That was a different question. May I amend that, sir? He spoke—he told me that he was trying to get engineering students. I don't recall that he specifically asked me if I knew of any for work at Reeves, but he did show an interest in getting people in.

By Mr. Kuntz:

Q. Well, the answers that you gave to my questions were truthful answers, were they not? A. In substance, yes.

Q. And to continue with the recapitulation, up in Schenectady, in his important work, Sobell didn't offer you any documents, did he? A. No.

Q. Did he offer you any documents to take over to Rosenberg? A. No.

Q. You were going to see Rosenberg, were you not? A. Yes.

Q. Sobell asked you to see Rosenberg, didn't he? A. Yes.

Q. He didn't offer you any documents? A. No.

Q. Did he tell you any secrets to tell Rosenberg? (498) A. No.

*Max Elitcher—for Government—Cross*

Q. I just want to spend a few minutes' time, if you please, on this occasion when you came up from Washington in the car with your family, and I think that was in June of '48; am I right? A. It was in July.

Q. July '48, right? A. Yes.

Q. You were scared to death at that time, were you not? A. 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.

Q. You had determined that you were going to save yourself, hadn't you? A. No.

Q. Well, you want to save yourself, don't you? A. Yes.

Q. And you came in the car to Sobell's house and told him that you had been followed by FBI agents; right? A. I told him I had been followed. I didn't know who was following me.

Q. Well, you assumed they were FBI agents, didn't you? A. Yes.

Q. I am not quibbling with you. Correct me if I make any wrong implication here. A. I just want to get it straight.

(499)

Q. Sobell got angry, did he not? A. Yes.

Q. He said you shouldn't have come to his place; is that right? A. Yes.

Q. At that time you knew Sobell was working at Reeves, did you not? A. Yes.

Q. You knew Sobell was working on important stuff at Reeves, didn't you? A. Yes.

*Max Elitcher—for Government—Cross*

Q. You knew Sobell was working on Government work at Reeves, didn't you? A. Yes.

Q. And Sobell told you in July of '48, "Max, you shouldn't have come here," didn't he? A. Yes.

Q. You didn't offer to take the family and go to a hotel, or anything like that, did you? A. No.

Q. You insisted on staying, did you not? A. Yes.

Q. And finally Morton Sobell allowed you to stay with your family; right? 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, you told this jury, I believe, that Morton Sobell said he was tired and asked you to drive his car over to—what is the name of that—Catherine Slip? A. Right, to the East Side. I didn't say that.

Q. What did you say? A. I said that he said (500) that he was tired and wanted me to accompany him in case he could not drive back.

Q. Well, do you know how far it is from Flushing to Lower Manhattan? A. Yes.

Q. How far is it, about? A. About 10 miles, maybe a little more.

Q. And Morton Sobell told you that he was so tired that he wanted you to accompany him on a 10-mile trip; is that what your story is to the jury? A. Yes.

Q. Well, did you tell him, "Mort, I am tired; I took more than a 10 mile trip"?

The Court: What time was this?

The Witness: About 9, 10 o'clock, late at night.

*Max Elitcher—for Government—Cross*

Q. Did you tell him, "Morton, I am tired and worried after this long trip of mine"; did you? A. Well, I told him I was concerned about the following. I didn't tell him I was tired, because I am sure I could continue to drive.

The Court: You were concerned about what?

The Witness: The fact that I was followed. I didn't say I was tired. I could certainly make the trip.

The Court: What was it that precipitated going to Catherine Street at that hour of the night?

(501)

The Witness: He said he wanted to bring something to Rosenberg, he had some material, valuable material, which he wanted to bring to Rosenberg, and he wanted me to accompany him. He didn't identify the material, but he said he had valuable material.

By Mr. Kuntz:

Q. I wish you would keep your voice up. We would like to hear this, too. A. Well, the thing that precipitated the trip was that Sobell said that he had some valuable material that he wanted to bring to Rosenberg.

Q. He took you along to be a witness to his carrying valuable material; is that it?

Mr. Saypol: Just a moment. That is not the testimony. That is what turns out to be the fact.

Mr. Kuntz: That is the substance of it.

Mr. Saypol: That is the fact.

*Max Elitcher—for Government—Cross*

The Court: Well, we will let the jury determine ultimately what the substance of it is.

Mr. Kuntz: I am satisfied to let the jury determine it.

Q. Did he show you the material? A. No.

Q. Did he tell you what the material was? A. No.

Q. Did you ask him what it was? A. No.

(502)

By the Court:

Q. Did he tell you why he was going at that hour of the night? A. Yes, to bring it—he said it was too valuable to destroy and he didn't want to keep it around the house because of the danger.

Q. The danger of what? A. The danger resulting from my being followed to New York, to the house.

By Mr. Kuntz:

Q. He told you all of that; is that it? A. Yes.

Q. Well now, let me see if I can get this clear in my own mind. You tell us that Sobell was involved in espionage work, don't you? A. Yes.

Q. Talk up, please? A. Yes.

Q. And you tell us also 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.

*Max Elitcher—for Government—Cross*

Q. And you offered to go into the car with Sobell, to take a 10 mile trip, knowing he had dangerous stuff?

Mr. Saypol: Just a minute now. That is not the testimony. It was Sobell who made the suggestion, not the witness.

Mr. Kuntz: May I suggest that the United States (503) Attorney just make an objection without characterizing whether it was or was not the testimony. If he doubts that it was the testimony, let the stenographer read it, because I don't think it is fair to characterize what is or is not testimony during my questioning.

The Court: Are you finished?

Mr. Kuntz: Yes, sir.

The Court: I sustain the objection.

Mr. Kuntz: I didn't hear your Honor's ruling.

The Court: I sustain the objection, because you are assuming something that hasn't been testified to.

Q. Well, when you say that Sobell told you he had some very dangerous, some very important material to deliver to Rosenberg, did you believe him? A. Yes.

Q. So that in your own mind at least, if it was important material, it was dangerous to have around, wasn't it, in your mind? A. I wasn't think of it in those terms, no.

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.

*Max Elitcher—for Government—Cross*

Q. Nevertheless, you got into this automobile with Sobell and made that 10 mile trip; is that right? A. Yes.

Q. By the way, I believe you told us that Sobell (504) knew that you were being followed; right? A. I don't know that he knew. He didn't believe it at first, but I guess he felt that perhaps I was. He was skeptical, I think, to the end.

Q. Well now, let's see. You said to him, in substance, "Mort, I have been followed up here from Washington"; didn't you? A. Yes.

Q. You told him, "I believe it is FBI agents"; 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 takes this 10 mile trip? A. I think I suggested it. I didn't want to go because I had been followed, and I don't think he suggested that I not go.

By the Court:

Q. What was his reply to that? A. I beg your pardon?

Q. What was his reply to that? A. He said he wanted me to go; he was tired and he wanted to make sure that he would make the trip back.

Q. Well, when you went down to your car, did either of you look around to see if you were being followed? A. 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 (505) house to—



*Max Elitcher—for Government—Cross*

By Mr. Kuntz:

Q. Who drove? A. He did.

Q. Sobell drove? A. Yes.

Q. That was after he told you he was too tired to drive?  
A. Yes.

Q. He drove to Catherine Slip? A. Yes.

Q. He drove back home? A. Yes.

Q. You didn't touch that wheel in that trip, did you?  
A. Well, yes, I did, I parked the car, but other than that, no.

Q. Well, other than parking the car, you didn't touch that wheel, did you? A. No.

Q. Then I understand Sobell came back to you and reported a conversation he had with Rosenberg; is that right? A. Yes.

Q. Now, up to that point, which is July 1948, you had been invited on many occasions, hadn't you, as you claim, to involve yourself in illegal work; is that right? A. Yes.

Q. But you had not involved yourself in illegal work, had you? A. Well, I had talked with them, yes, but otherwise, no.

Q. Had you involved yourself in illegal work?

Mr. Saypol: Just a moment. I think that is (506) a conclusion of law. The witness has testified as to what he said.

The Court: Yes, I think that is a conclusion of law.

Mr. Saypol: He has testified to these conversations.

Mr. Kuntz: I will withdraw it.

*Max Elitcher—for Government—Cross*

Q. You had at least not participated in taking or delivering any documents, at least you hadn't? A. Yes.

Q. And this was over a period of several years, was it not? A. Yes.

Q. And you want this jury to understand or to believe that Sobell came back and voluntarily reported the conversation to you, which included the word "Bentley" the name "Bentley"?

Mr. Saypol: I object to the question.

The Court: I will sustain it as to the form of that question.

Mr. Kuntz: I respectfully except.

The Court: You can phrase without the preface that "you want this jury to believe," because I assume he wants me and the jury to believe whatever he is testifying to.

Mr. Kuntz: All right.

(507)

Q. And yet you state to this jury that Sobell reported to you a conversation that he had with Rosenberg, in which the name "Bentley" was used; is that what you want your testimony to stand at? A. Yes.

Q. The name "Bentley" at that time was quite an important name, wasn't it? A. Yes.

Q. The newspapers had a tremendous amount of material and publicity on Bentley, didn't they? A. Yes.

Q. She had testified before many committees—before a number of committees, right? A. She had testified, yes.

The Court: Speak up.

A. She had testified, yes.

*Max Elitcher—for Government—Cross*

Q. And you read in the newspapers constantly about this Bentley lady; is that right? A. Well, I don't know "constantly." It had occurred a short time ago.

Q. Well, the name Bentley, when it was mentioned, in your mind was rather an important name, was it not? A. Yes.

Q. Am I correct in my recollection that you testified on your first visit in July 1950, your first visit down here to the FBI, that you reported to them this visit? A. I did not.

Q. What? A. I did not.

The Court: Are you referring to the Bentley situation? (508) tion?

Q. I am talking about this trip. A. The trip down, I did not refer to that on that trip down.

Q. 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. Yes.

Q. If I remember correctly, between 1942 and 1948 you only saw Sobell on a very few occasions; is that right? A. Yes.

Q. This occasion of your trip to Catherine Slip, that loomed rather important in your mind, did it not? A. Yes.

Q. I presume it loomed important in your mind because Sobell had told you that he had very secret dangerous stuff with him; is that right? 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.

*Max Elitcher—for Government—Cross*

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. Were you trying to conceal it? A. At the time, perhaps.

(509)

Q. In other words, you were trying to lie to the FBI, weren't you? A. No. I omitted, but I didn't—all right, I lied.

Q. Let's not quibble. Was it lying to the FBI, or was it— A. If they asked me if that was all the testimony—

Q. Well, didn't they?

The Court: Were you finished?

A. (Continuing) If they asked me, "Was that all?" I probably said "No," because I did withhold that particular piece of testimony.

Q. Look, after several preliminaries, let's get back to my original question. See if I was wrong in asking it. You did lie to the FBI, didn't you?

Mr. Saypol: Just a moment now. The test here isn't whether Mr. Kuntz is wrong or not. I object to the question.

Mr. Kuntz: No, the test is whether this witness is wrong.

The Court: Now, supposing we don't have any arguments about tests.

Mr. Kuntz: Well, I didn't raise it, Judge.

*Max Elitcher—for Government—Cross*

The Court: All right, let's have no further argument.

Mr. Kuntz: I submit, I can—

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The Court: Let's have no further argument. Go on with your next question.

By Mr. Kuntz:

Q. Now, answer my question, did you lie to the FBI?  
A. Yes.

Q. And in other respects you continued to lie, did you not, by not reporting fully, is that it? A. Yes.

Q. By the way, when you finally reported this incident of the trip, the ten-mile trip, when you finally reported it 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. All right, I will accent that. Either you lied or you forgot. A. Yes.

Q. What? A. Yes. I don't recall whether I had not stated it that first time.

Q. But you did remember, you did remember when one of the FBI agents said, "Did you have any contact with Bentley?" isn't that right? A. Yes.

Q. And when they raised the question of Bentley, that was the first time you mentioned Bentley; right? A. No. When they raised it for the first time?

Q. When they raised the name Bentley with you, that was the first time you told them about Bentley? (511) A. No.

Q. I thought you told us a couple of minutes ago that

*Max Elitcher—for Government—Cross*

you omitted Bentley? A. I omitted a portion of the trip downtown to Catherine Slip, on the first occasions.

Q. Look, we went past that. A. When I decided—to tell about that trip, I told the whole story. They did not bring up the name of Bentley, I did.

Q. Well, now, let's find out. Don't you remember telling Mr. Bloch, Junior, in answer to his questions that you only told the FBI about Bentley after one of the agents asked you about Bentley? A. Not in answer to a question, but much after they had mentioned the name of Bentley.

Q. I am just asking you whether it isn't true that you testified here this morning, in answer to a question by Mr. Bloch, that you only mentioned Miss Bentley to the FBI after the FBI suggested that name; isn't that true? A. Yes.

Q. So that my memory is correct on that, isn't it? A. Yes.

By the Court:

Q. Well, is that the fact? A. Well, not right after, in time. That is the way he put it.

Q. Well, now, I wish, Mr. Witness, that you would explain an answer, if it requires explanation, and that (512) you don't answer simply yes or no, because I am beginning to get a bit confused here. Now what is the answer to that? A. During the early questioning, they mentioned Bentley; they might have mentioned other names, too, saying, "Did you have anything to do with Miss Bentley?" I said no. That was the end of that. There was no further questioning by the FBI about the name Bentley until I brought up the name of Bentley myself, at a later period.

*Max Elitcher—for Government—Cross*

Q. What you are trying to say is, they did not direct your mind to this particular incident? A. That is correct.

By Mr. Kuntz:

Q. Are you through? A. Yes.

Q. Let's take it from there. 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? Didn't you tell us that? A. Yes, but much later.

Q. Didn't you tell this jury that only two or three minutes ago?

The Witness: I am now confused, sir.

The Court: Well, now, if you are confused, will you answer the question in your own words.

The Witness: Yes, I spoke, I mentioned the name of Bentley to the FBI after—

(513)

Q. I didn't ask that question.

Mr. Saypol: Oh, please.

The Court: Will you continue to answer that?

Mr. Saypol: No.

Mr. Kuntz: Please, Mr. Saypol.

Mr. Kuntz: I object to Mr. Saypol addressing himself to me.

The Court: Very well, don't address yourself to him.

Mr. Saypol: I haven't. I don't intend to.

The Court: Proceed.

*Max Elitcher—for Government—Cross*

A. The name Bentley was brought up by the FBI agents and I said I had nothing to do with Miss Bentley. At a much later period, I told them that the name Bentley had been mentioned to me by Sobell.

Mr. Kuntz: I move to strike out the answer.

The Court: It will stand.

Mr. Kuntz: It is not responsive, and I ask the witness to answer the question I propounded. I submit it is in answer to something but not the question I propounded.

The Court: Don't raise your voice to me.

Mr. Kuntz: I am sorry, Judge; I am sorry, Judge; it means nothing. It is my customary way, your Honor.

The Court: I will accept your answer.

Mr. Kuntz: I have never tried a case in any different way.

The Court: Proceed.

Mr. Kuntz: I assure you.

The Court: All right.

Mr. Kuntz: All the judges have occasion at times to say the same thing, but after a while they get to know me.

(514)

The Court: Very well.

Mr. Kuntz: I am sorry. I suggest that your Honor have my last question read.

The Court: Let me have his question again. (Question read.)

The Court: All right, I think the subject has been exhausted and I believe he has answered it.

Mr. Kuntz: May I respectfully except.

*Max Elitcher—for Government—Cross*

By Mr. Kuntz:

Q. You never met Miss Bentley, did you? A. No.

Q. Did these Sobell, in these various invitations to you, that you claim, to commit espionage, did Sobell mention Bentley to you? A. No.

Mr. Saypol: I object to the question as to its form.

The Court: I will let it stand.

A. (Continuing) No.

Q. Did Rosenberg, in the invitations to you, ever mention the name Bentley? A. No.

Q. So, what you told the jury this morning and partially yesterday was the only time Miss Bentley's name was mentioned; is that right? A. That is correct.

Mr. Kuntz: Thanks a lot.

The Court: Are you through?

(515)

Mr. Kuntz: Yes, sir.

The Court: There is some redirect, I take it, isn't there?

Mr. Saypol: Just one or two questions.

Mr. E. H. Bloch: Before Mr. Saypol goes on redirect, I have a request to make, which I told your Honor I was reserving.

Mr. Saypol: That should be, I think, in camera, in the absence of the jury.

Mr. E. H. Bloch: I am perfectly satisfied.

The Court: All right, come up.

*Max Elitcher—for Government—Re-direct*

(The following discussion took place at the bench outside the hearing of the jury.)

. . . .

(526) . . .

Redirect examination by Mr. Saypol:

Q. Mr. Elitcher, you have been examined, you have been questioned here on cross-examination concerning medical treatment by yourself and your wife, by a doctor, by a physician, expert, psychiatrist. Was that consultation and treatment occasioned by some domestic difficulty?

Mr. E. H. Bloch: Well, I object upon the ground that this witness is not an expert and can't answer that. When we get into the field of psychiatry then I must admit we are getting into a nebular—

The Court: But you got into the field and I think you have left a certain implication, which all laymen have, when somebody goes to see a psychiatrist. It may be unfortunate, but all laymen get some impression when they hear that somebody has been to a psychiatrist. I think this witness should be permitted to tell what motivated him in going to the psychiatrist.

Mr. E. H. Bloch: If that is the purpose, what motivated him, I don't mind that at all, but that wasn't the question.

The Court: He asked him whether—

Mr. E. H. Bloch: What occasioned it.

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The Court: All right, let us proceed.

Mr. Saypol: For the protection of the record, if the Court will allow me, I want to make an observation: I could have objected to any examination of that kind on the ground that it was privileged, but I purposely refrained. On the other hand, having been brought out, and I knew about it, I think I have a right to have the whole picture put on the record.

The Court: Go ahead.

Q. What was it that made you go or caused you to go to a psychiatrist, to a doctor? A. Well, after our marriage we found that we had domestic difficulties and we found it difficult to live with each other. We found that I had personality problems and she had personality problems which prevented a happy existence together. I found it difficult to meet with people, to have a good time, to talk in front of an audience. I think, to jump a step, without the aid that I went to, it would be difficult for me to present myself in front of this audience in this manner, and because of that my wife decided that she would attempt to correct her problems which were of a similar nature to mine, but perhaps not exactly the same. She went to a psychiatrist and felt that she was being benefited by it, but because I wasn't going, so that it would be a two-way arrangement, that both of us would be improved by it, she (528) insisted that I go. It was upon her insistence that I finally did go to a psychiatrist. It was only after I had gone and had been able to recognize some

*Max Elitcher—for Government—Re-direct*

of my problems, that our married life did adjust itself, and I will say right now that it couldn't be much happier as married life goes.

Q. In taking these treatments from the doctor did it require that you remain away from your work? A. No.

Q. Did you take the treatment during working hours or at times other than those? A. At times other than working hours.

Q. Did you lose any working time at all as a result of the treatments which you took? A. No.

Q. In these treatments, did they consist of anything other than conversations between you and the doctor? A. It did not. In fact, in my case I don't recall that there was any—as I said before, any therapy applied by the doctor to me. It was merely a telling of my life, my problems, and a discussion with the doctor concerning them so that I recognized what my difficulties were; some perhaps slight suggestions as to how to handle the situation, but as I say essentially there was no therapy even applied to me.

Mr. E. H. Bloch: I move to strike out that portion of the answer in which the witness said that there was no (529) therapy applied to him upon the ground that he is not qualified to make such a statement and that it has no probative value.

The Court: Overruled.

Mr. E. H. Bloch: I respectfully except.

Q. Did you ever tell the defendant Sobell about the fact that you were taking these treatments? A. Yes, I did.

Q. There has been some examination here concerning

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statements, questioning of you by agents of the Federal Bureau of Investigation, by myself and by members associated with me. 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.

Mr. Saypol: That was the date.

Q. On that first day had you had any prior knowledge of any kind of the fact that the agents were about to call upon you? A. No.

Q. After they called upon you at your place of employment there was some discussion with one of your superiors there, was there not? A. After, you say?

Q. That is, at the time they called? A. Yes.

(530)

Q. And they talked with you? A. Yes.

Q. Thereupon was there a suggestion that the discussion, the questioning be taken up at the offices of the Federal Bureau of Investigation rather than at your place of employment? A. Yes.

Mr. E. H. Bloch: May I ask that Mr. Saypol clarify the question? Suggestion by whom?

Q. Well, in the discussion who suggested that it be continued at the headquarters, at the office of the Federal

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Bureau of Investigation rather than at your place of employment? A. The agents asked if I would go down with them.

Q. Was there any force employed? A. No.

Q. Was there any coercion? A. No.

Q. Were there any threats? A. No.

Q. Was there any loud shouting? A. No.

Q. And so you accompanied the agents to their offices then in this building? A. Yes.

Q. Now when you arrived at the building, what was the atmosphere in which the discussion went on?

Mr. E. H. Bloch: Objected to as to form.

The Court: Your objection is that it is a conclusion?

Mr. E. H. Bloch: I don't know what atmosphere means, your Honor?

(531)

The Court: Well, be a little more specific.

Mr. E. H. Bloch: It is vague.

Q. Was there great shouting by anybody? A. No.

Q. Was there great manifestation of force or was there any kind of manifestation of force? A. No.

Q. Or any threats conveyed to you directly or indirectly? A. No, sir.

By the Court:

Q. Would you say the agents at all times behaved themselves like gentlemen? A. I would say so.

Mr. Kuntz: What was your question, Judge?



*Max Elitcher—for Government—Re-direct*

The Court: Would you say that the agents at all times behaved themselves like gentlemen.

Mr. Kuntz: Oh, I am sure they did.

The Court: Are you willing to concede that?

Q. And at that time they did, is that right? A. Yes.

By Mr. Saypol:

Q. Now, do you recall, Mr. Elitcher, that in all of your meetings with Agents at the very outset of any discussion you were apprised of your rights as an American citizen? Were you not? A. Well, the first few. After that it wasn't brought up again.

Q. But at the outset? A. Yes.

Q. You were told, for instance, that it was entirely up to you whether you wanted to answer their questions? (532) A. Yes.

Q. You were told additionally, you were reminded perhaps of something you knew, that you had a right not to incriminate yourself? A. Yes.

Q. That is, under the Constitution? A. Yes.

Q. And having that right you didn't have to answer any questions? A. That is correct.

Q. You were asked to state positively at the outset that no threats and no force had been exercised in connection with your examination? A. That is correct.

Q. At any time in your relation with the agencies of the Government, and I couple them all, has anybody tried to color your story or suggest to you anything other than the truth as you know it?

*Max Elitcher—for Government—Re-direct*

Mr. Kuntz: I object to that, if your Honor please.

The Court: Overruled.

A. No.

Mr. Kuntz: Exception.

Q. What has been stated to you regarding the testimony you have given throughout?

Mr. E. H. Bloch: Well, I object to that as too general.

The Court: That is awfully general. Rephrase it.

Q. Have you been requested expressly to say nothing else but the truth?

(533)

Mr. Phillips: That is objected to, if your Honor please.

The Court: Overruled.

Mr. Phillips: Exception.

A. I was never asked to tell anything but the truth.

Q. Was that said to you affirmatively? A. Yes.

Q. Now, coming back to the occasion of the first day that you came here: was the complete story of your experiences over the years in connection with this espionage matter, both with respect to these defendants and others, completely told at that time? A. No.

*Max Elitcher—for Government—Re-direct*

Mr. E. H. Bloch: I object to the form of the question.

(Last question read at the request of the Court.)

Mr. E. H. Bloch: Upon the additional ground that it is not proper redirect; that it has been answered.

Mr. Saypol: I will withdraw the question.

Q. Did you finish your story the first day? A. No, I did not.

Q. Is it the fact that after some talk between you and after answering some questions or answering questions you said you wanted to talk to your wife? A. Yes.

Q. Your statement was prepared that day? A. Yes.

Q. Did that statement contain all of the information (534) which had been discussed between you, or only part of it? A. I believe it took in everything that was discussed. What happened was—

Mr. E. H. Bloch: I object to any further statement. I submit that is a complete and exhaustive answer.

The Court: Overruled.

Mr. E. H. Bloch: Exception.

Q. Go ahead. A. We had all felt—well, the discussion—I had told them what had occurred on the visit as I remembered it, and then they said they would like to have a written statement and would I agree to sign such a statement. I said yes; and we sat at a table and we tried to recall everything that had been—that I had said. I don't remember whether everything was recalled. We felt that it was an exhaustive—at the moment an ex-

*Max Elitcher—for Government—Re-direct*

haustive statement. Anything any of the agents recalled that was omitted they would ask me, and I would say "Yes, put that down," and then I signed it.

The Court: Is this a convenient place to break off for lunch?

Mr. Saypol: Yes, your Honor.

The Court: All right, we will recess until 2.20 p.m.

(Recess until 2:20 p.m.)

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## AFTERNOON SESSION

MAX ELITCHER, resumed the stand.

Redirect examination continued by Mr. Saypol:

Q. At the time of the luncheon recess, Mr. Elitcher, you were describing the meeting you had with the agents in the course of which you were asked whether or not you would be willing to give a statement, and you answered you would. Do you remember at that time in addition to the advice you were given about your rights, was something said about your right to counsel? A. Yes.

Q. At that point did you then adjourn the proceedings and proceed to your home in Flushing? A. Yes—well, not at that point. We did go to my home in Flushing. I was told—

Q. Where there was some talk about the statement? You have been told about counsel. Then up to that point isn't that a fact that the discussion had been confined mostly to Rosenberg? A. Yes, that is true.

*Max Elitcher—for Government—Re-direct*

Q. Then you went at that time to your home in Flushing? A. Yes.

Q. Did you talk some more? A. Well, when I went out to Flushing, I believe when I got there I wanted to see my wife.

Q. Did you talk to your wife? A. Yes. Briefly. And then I started to tell the agents about the story, (536) as I had been telling.

Q. Then the following day did you come back voluntarily to the office of the Federal Bureau of Investigation? A. No. They visited me at my place of work and there they questioned me further.

Q. Was it at that time that they first raised the question of Sobell? A. Well, that is the first time we had a full discussion about Sobell.

Q. Is that the time when you told them about Sobell? A. Yes. I had mentioned Sobell on the previous day, too.

Q. Now, in the course of the conversation was it you or was it the agents who made first mention of Bentley? A. The agents.

Q. Up to that point had there been any mention of Bentley, Miss Bentley? That is, on the preceding day or up to the time when they mentioned it in the place of your employer? A. Before that? No.

Q. Had you ever met Elizabeth Bentley? A. No.

Q. Had you ever had any dealings with her directly or indirectly? A. No.

Q. In the course of cross-examination of you by Mr. Kuntz, he asked you a question whether or not it was a fact that you had lied to the agents in regard to Bentley.

*Max Elitcher—for Government—Re-direct*

Did you deliberately make a misstatement of (537) fact to the agents with the intent to deceive them?

Mr. E. H. Bloch: Objected to upon the ground it has already been answered.

The Court: Overruled.

Mr. Kuntz: Objection on the ground that it is improper redirect examination.

The Court: Overruled.

A. No, I did not.

Q. Do you wish to make an explanation in regard to the answer you have given when you have said that you lied?

Mr. E. H. Bloch: Same objection.

Mr. Kuntz: Same objection. I object to any explanation.

The Court: Overruled.

A. When I said that I meant that I had not revealed to them this trip, the fact that I had been followed to New York and what resulted at Sobell's house, and going down to Rosenberg's house, going down to the East Side and the mention of Bentley. When I said I had lied I meant that I had not told them that story at that particular time. Otherwise I didn't lie to them.

(538)

Q. Now, from the time when they first saw you, continuing right up to the present time, have there been other matters unrelated to this case that have been discussed between you and the agents? A. Yes.

Q. Of course, you have not testified as to those matters in this trial? A. No.

*Max Elitcher—for Government—Re-direct*

Q. I take it, so far as you have been able, you have answered my questions and you have answered the questions of counsel for the defendants as best you could? A. Yes.

Q. 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. Yes.

Q. That information was in part incorporated in a third statement that you have testified about? A. Yes.

Q. At this trial you have testified to the best of your knowledge truthfully as to the facts as they have been elicited—

Mr. E. H. Bloch: I object to that.

Mr. Kuntz: I object to that question. It is a question for the jury to determine.

Mr. E. H. Bloch: It is a question for the jury to decide.

The Court: Sustained.

Mr. Saypol: That is all.

(539)

Recross examination by Mr. E. H. Bloch:

Q. When you were first taken down for questioning here in the Federal Building, how long did you stay here? A. I stayed about three hours or a little more.

Q. Was it at that time that you went back to Flushing? A. After that, yes.

Q. Did you make an arrangement prior to the time that you left this building to meet the two FBI agents who questioned you the following day? A. No, no.

*Max Elitcher—for Government—Re-cross*

Q. Did you at any time during those three hours from about noon, I believe you said, to about 3 or 3.30, while you were here, ask for the right to counsel? A. I did not.

Q. So that so far as you knew when you left this building the first time you were brought down here for questioning, you were not coming back for further questioning, isn't that a fact? A. That is not a fact. I thought that I would probably be brought back immediately after my stay at my home, and I thought—

Q. Did the agents—

The Court: Wait a minute. He has not completed his answer.

A. I thought—I was sure that I would be taken into custody. I knew of nothing else.

Q. Did the agents accompany you from this building (540) to your home in Flushing that afternoon? A. Yes.

Q. How long did they stay with you? A. We got there somewhere between 4 and 5 o'clock, I believe, and we stayed until about midnight.

Q. And did you talk to them during that period from about 4 or 5 until midnight? A. Yes.

Q. Continuously? A. No, there was a—

Q. What was the break? A. There was a long interruption during which they made a search of the house.

Q. Did the FBI agents have dinner at your home. A. They did not.

Q. Did they go out to dinner? A. Not to my knowledge. They were there all the time.

Q. Right along? A. Well, one went out and another came in—

*Max Elitcher—for Government—Re-cross*

- Q. At short intervals? A. Yes, but they never left.
- Q. How long in all would you say the agents were out of your house during that approximately 7 to 8-hour period? A. They were there during the whole period.
- Q. You said they went out— A. One might have gone out.
- Q. One might have gone out? A. Yes.
- Q. For a few moments only? A. Yes.

(541)

Q. How long did it take the FBI agents to conduct a search of your home? A. I say at least a couple of hours. I couldn't gauge the time but it took quite some time.

Q. Of course, there was nothing in your home which indicated that you had any information with respect to Sobell or Rosenberg, isn't that right? A. I don't know.

Q. Well, did you have any documents of any kind connecting you with Rosenberg or Rosenberg with you? A. No.

Q. Anything that you communicated to the FBI was by word of mouth? A. Yes.

Q. Isn't that right? A. Yes.

Q. Now, during the period while the FBI agents were in your house and excluding the couple of hours that they were necessarily engaged in searching your house did you continue to talk to them? A. Yes.

Q. And did they make notes? A. I don't think they made notes. I'm not sure. I mean I didn't see them at all times. I talked to them and I don't believe they made notes while I was talking to them.

Q. Where did you talk to them, in your living room? A. Yes.

*Max Elitcher—for Government—Re-cross*

- Q. And were you seated? A. Yes.
- Q. And were they seated? A. Yes.

(542)

Q. Try to refresh your recollection and tell us whether they had any paper in front of them or whether they had a pencil in their hand or a pen or any other writing implement. A. I would say no, they didn't take down testimony.

Q. After the time came about midnight when they left, did you have any definite understanding or arrangement with them conveyed by word of mouth either expressly or impliedly that you were going to meet them the following day? A. Well, they told me they wanted further statements from me. I don't remember whether they said it would be the next day or any day further, but they said they were going to come back and talk to me, and they didn't say where, they would let me know, about further testimony.

Q. And they did not say when? A. That's correct.

Q. Now, when you were in your home at any time on that day from about 4 or 5 to 12, as you say, did you sign any statements? A. Yes.

Q. Now, let us clarify this: Is it your testimony that you signed two statements that first day that you were brought down for questioning? A. No.

Q. One here and one in your home? A. No, no. I signed—they told me that they wanted a statement which primarily regarded Rosenberg that first evening. It was (543) quite late and they said that they wanted a further statement which would primarily take Sobell into account and that might be tomorrow, they would let me know.

*Max Elitcher—for Government—Re-cross*

They might have said it will be tomorrow, but they said they would get in touch with me again.

Q. What I am trying to get at is, and I think some of us would like to know—in fact, all of us would like to know, is whether or not when you refer to the first statement that you signed, you signed that statement in your home in Flushing, rather than here in the Federal Building? A. Yes.

Q. And did you sign that statement just before the FBI agents left your home somewhere around midnight? A. Yes.

Q. And that statement was signed by you after you had talked to these agents for about 3 or 3½ hours here and a number of hours in your home in Flushing, isn't that right? A. Yes.

Q. And that was after you had a full discussion with them concerning your alleged relationship with Rosenberg, is that correct?

Mr. Saypol: Just a moment. The question is objectionable as to form.

The Court: I will overrule the objection.

A. Well, I don't know whether it was a full statement. (544) I sat there and told them a narrative of what had happened. When we got through I don't think I was sure I had told everything, and they weren't sure either. They said they wanted a statement and would I be willing to sign such a statement. I said, yes, and we sat in the kitchen, at the kitchen table, and we prepared the statement.

Q. And you recapitulated all the salient features of what you had told them orally? A. Yes.

*Max Elitcher—for Government—Re-cross*

Q. Is that correct? A. Yes.

Q. How long would you say it took you and the FBI agents to make this recapitulation? A. I am sure it took more than an hour.

Q. And in the course of that recapitulation as well as in the course of your previous discussions with these FBI agents certain places were mentioned by you, were they not? A. Yes.

Q. And time was mentioned by you with relation to the incidents that you told them about? A. Yes, time, as I recall, was mentioned.

Q. Now, is it accurate to say that the last thing that was done that day of your discussions was the signing of your statement at your home in Flushing? A. Yes.

Q. And immediately upon your signing of that statement the FBI men left, is that correct? A. Yes.

Q. Isn't it a fact that that statement was written (545) out in the kitchen of your house? A. Yes.

Q. On the kitchen table? A. Yes.

Q. Now didn't you testify on cross-examination by Mr. Kuntz just before the luncheon recess that you deliberately omitted mentioning this automobile ride that you took with Sobell from your home in Flushing to Catherine Slip and the conversation that you are alleged to have had with Sobell where Bentley's name was mentioned? A. Yes, I omitted to say that.

Q. You deliberately omitted to say that, did you not? A. Yes.

Mr. E. H. Bloch: That is all.

The Court: Is there anything further?

Mr. Saypol: If you will allow me one question.

*Max Elitcher—for Government—Re-re-direct*

Redirect examination by Mr. Saypol:

Q. You testified now to a search that the agents made in your home that night. Was that search made with your consent and your approval? A. Yes, I had consented to it before we left the building here.

Mr. Saypol: That is all.

Recross examination by Mr. E. H. Bloch:

Q. How many pages according to your recollection are in that first statement? A. I don't know, because I didn't write it.

The Court: All right.

Mr. E. H. Bloch: If the Court please, that is all (546) the defense has with respect to this witness, with the exception of the matters we took up with you.

The Court: This witness is excused, but I would like to have him available Monday morning in the building in the event that I deem it necessary that he be recalled on the matter of these statements. I will read the statements.

Mr. Saypol: The witness will always be available.

(Witness excused.)

. . . .

(547)

DAVID GREENGLASS, called as a witness in behalf of the Government, being first duly sworn, testified as follows:

. . . .

(592) . . .

Q. What did you tell your wife? A. I told my wife that I wouldn't do it. And she had also told me that in the conversation Julius and Ethel had told her that Russia was an ally and as such deserved this information, and that she was not getting the information that was coming to her. So later on that night after this conversation I thought about it and the following morning I told my wife that I would give the information.

. . . .

(688) . . .

DAVID GREENGLASS, resumed the stand.

. . . .

(763) . . .

Cross examination by Mr. E. H. Bloch:

. . . .

(768) . . .

Q. Did it occur to you on November 29, 1944 or November 30, 1944—and I don't want to quibble about the date—at any rate, did it occur to you at the time that you finally said to your wife "I will do this" and then transmitted to her certain information, that there was a possible penalty of death for espionage? A. Yes.



*David Greenglass—for Government—Cross*

Q. You knew that? A. I did.

(794) . . .

Q. And you realize the possible death penalty, in the event that Ethel is convicted by this jury, do you not? A. I do.

Q. And you want to tell—

The Court: Do you realize also that the matter of penalty is a matter entirely within my jurisdiction, not within the jurisdiction of the jury?

The Witness: I understand that, too.

Mr. E. H. Bloch: That is why I used the word "possible," your Honor.

(970) . . .

RUTH GREENGLASS, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct examination by Mr. Kilsheimer:

(973) . . .

Q. Just tell us what went on in the conversation. A. I said that I had received an affidavit from the War Department telling me that my mail to David would be censored and his to me, because he was working on a top secret project.

*Ruth Greenglass—for Government—Direct*

The Court: Madam, could you sit back?

The Witness: Yes, I am sorry.

The Court: And just speak a little slower, please.

The Witness: Yes.

A. (Continued) And he 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 (974) 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. 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—

Mr. E. H. Bloch: I move to strike it out.

*Julius Rosenberg—Defendant—Direct*

The Court: All right, strike out the word "persuaded."  
 . . . .

(1560)

JULIUS ROSENBERG, one of the defendants, called as a witness in behalf of defendants, being first duly sworn, testified as follows:

Direct examination by Mr. E. H. Bloch:  
 . . . .

(1602) . . .

The Court: Well, did you ever belong to any group that discussed the system of Russia?

The Witness: Well, your Honor, if you are referring to political groups—is that what you are referring to?

The Court: Any group.

The Witness: Well, your Honor, I feel at this time that I refuse to answer a question that might tend (1603) to incriminate me.

Q. Are you—

Mr. Saypol: Just a moment. May I clarify that?

The Court: It seems to me I have been hearing a lot about that.

*Julius Rosenberg—Defendant—Direct*

Q. Are you referring to membership in the Communist Party? A. Well, I am referring to membership in any political organization like the Communist Party.

Q. And when you answered the Court's question did you have in mind the Communist Party? A. Yes, I did.

The Court: Well now, I won't direct you at this point to answer; I will wait for the cross-examination.  
 . . . .

(1608) . . .

By Mr. E. H. Bloch:

Q. Did he tell you at that time he was working at Los Alamos? A. No, he did not.

Q. Did he tell you at that time that he was working on the atom bomb Project? A. No sir; he (1609) did not.

Q. Did you mention anything about atom bomb at that time? A. I did not.

Q. Did you know anything about atom bomb at that time? A. I did not.

Q. Did you discuss politics with them that night? A. Well, as every intelligent American did in those times, we discussed the war.

Mr. Saypol: May I ask to have the answer stricken as not responsive.

Mr. E. H. Bloch: I consent.

Mr. Saypol: I don't want this man set up as a standard for intelligent Americans.

Mr. E. H. Bloch: Now, I move to strike out Mr. Saypol's statement.

*Julius Rosenberg—Defendant—Direct*

The Court: Disregard Mr. Saypol's statement and strike from the record "intelligent American."

Q. Never mind about any intelligent American. We are asking you whether you and your wife and sister-in-law and brother-in-law discussed politics? A. Yes, we discussed the war.

Q. Was that unusual for you to discuss politics with your family or friends? A. No, it was not.

Q. Have you any independent recollection of what specific subject you discussed that night with Dave and (1610) Ruth? A. Well, we were talking about the effort all the different Allies were making in the war and we noted that the Russians were carrying at that particular time the heaviest load of the German Army.

Q. Did there come a time when Dave left to go back?

By the Court:

Q. Did you express any opinion that the Russians were not getting the cooperation from the Allies that they were entitled to? A. No, I expressed the opinion that I felt it was my opinion, not as an expert, but as an individual, that there should be a second front at that time. I don't remember if it was at that time.

Q. What I am asking you is, did you express the opinion that the Allies—that the Russians were not getting the cooperation from the Allies that they were entitled to? A. No, I didn't express that opinion, sir.

• • • • •

*Julius Rosenberg—Defendant—Cross*

(1723) • • •

Cross examination by Mr. Saypol:

Q. Mr. Rosenberg, tell us a little bit about your associates when you were at City College. Who were they? A. Fellow students I attended school with.

Q. Yes? A. Morton Sobell attended City College. There was Benjamin Yelsey. I believe he changed his name from Yelsey.

Q. Spell Yelsey? A. Y-e-l-s-e-y. Marcus Pogarsky; Joel Barr.

Q. That is the man whom you told us today you lived with your wife for about a year over in Williamsburg and you forgot to tell us about that yesterday, is that (1724) right? A. That is correct. Max Elitcher attended City College at that time. That is about all I can remember at this time.

Q. Was there a man or a boy by the name of Perl or Mutterperl? A. Your Honor, I read in the newspapers about—

The Court: You had better not say anything you think may hurt you.

The Witness: Yes, sir, that is what I want to say. I read in the newspapers about a man being arrested for perjury—

Q. Before you tell us that— A. Wait a second. I would like to finish my statement.

The Court: Let him finish, Mr. Saypol.

The Witness: My name was mentioned and I

*Julius Rosenberg—Defendant—Cross*

feel that I refuse to answer any questions that might tend to incriminate me.

Mr. Saypol: You see, that is all I wanted to know, whether he knew him because if he said no I should not have to press it.

Now, in the posture of the case as it is, the witness raises a question of incrimination, apparently of the defendant's own making on his direct examination. That may occur and I should ask the Court not to make any positive direction except as I may request it. In other (1725) words, I shall try to be selective in my questions until such time as I deem it necessary.

The Court: Then I will consider you are not pressing the question.

Mr. Saypol: Yes.

The Court: Where he asserts privilege.

Mr. Saypol: Yes.

The Court: Therefore I will make no ruling.

By Mr. Saypol:

Q. So the state of the record is in respect to a man named Perl or Mutterperl you raise the question that an answer might tend to incriminate you, is that right?

Mr. E. H. Bloch: Wait a second. That has already been asked and answered and I don't think there should be too much of a statement or discussion about it.

The Court: All right.

*Julius Rosenberg—Defendant—Cross*

Q. Were there any other persons that you forgot to tell us about or you haven't told us about that you were friendly with or associated with at City College? A. Yes. There was a man by name of Joel Barr.

Q. Where is Joel Barr today, do you know? A. To the best of my knowledge he is in Europe today.

Q. Did you have anything to do with getting him into Europe? A. No, I did not.

(1725-A)

Q. Are there any others? A. That is about all I can remember at this time.

Q. Was there any common activity or were there any activities which brought this group you have named together? A. Yes.

Q. And what were those? A. There was a student chapter of the American Institute of Electrical Engineers at City College and I was a member of it.

(1726)

Q. Any other activities? A. I don't understand what you mean, Mr. Saypol.

Q. Well—

The Court: He wants to know whether you belonged to anything else with them; did you have any club or anything like that?

The Witness: What kind of a club?

Q. You tell me. A. I don't understand the question.

Q. Well, were there any other associations, clubs, fraternities, organizations, study groups, lunch clubs, dinner clubs, at the college, at which you and these others or some of them met together, talked together?

*Colloquy of Counsel*

Mr. E. H. Bloch: If the Court please, I think that the question is very general, but that is not the reason I am objecting to it. I feel that we may be intruding now in that ground of political activity which we discussed with the Court.

Mr. Saypol: I don't think so at all. I think I observe a distinct reticence on the part of the witness to answer my question.

Mr. E. H. Bloch: I object to any statements on the part of Mr. Saypol.

The Court: Wait a minute, wait a minute. You are not objecting to the form of the question; is (1727) that right?

Mr. E. H. Bloch: That is right.

The Court: I think the witness can answer the question. If he can't answer the question, the witness seems to be very intelligent; he seems to know just what his rights are; he didn't have to have any probing from you before to assert any privilege. I think he knows what his rights are.

Mr. E. H. Bloch: Now, if the Court please, I would like to make a statement for the record in support of my objection, and it is going to be very brief. If this question seeks amongst other things to elicit from this witness any association by him with the Young Communist League or anything to do with communism, I object to it, at least to that portion of the question which seeks to elicit that.

The Court: On what ground?

Mr. E. H. Bloch: Upon the ground that no causal relationship has been proved or established.

*Julius Rosenberg—Defendant—Cross*

The Court: You are not objecting then on any constitutional ground?

Mr. E. H. Bloch: Yes, of course.

The Court: Oh, you are objecting on the causal ground.

Mr. E. H. Bloch: I am objecting on the causal (1728) ground, and it is for the witness and not for me to assert his privilege.

The Court: On your ground, it is overruled.

Mr. E. H. Bloch: All right, I respectfully except.

The Court: Now, I am not ruling on the privilege.

Mr. E. H. Bloch: You see, I can't exercise any privilege for the witness.

The Court: I just want to be sure what you were doing.

Mr. E. H. Bloch: That is right; I am objecting on a strictly legal, logical, if you will—

The Court: That is right; overruled.

Mr. E. H. Bloch: I respectfully except.

Mr. Saypol: Maybe I can help the witness.

The Witness: Your Honor, can I say something?

The Court: Do you understand the question? First I want to make sure that you understand the question. Do you?

The Witness: No, I do not.

Q. Well, is there a Boy Scout troop up there? A. Not to my knowledge.

Q. So you didn't belong to that; is that right? A. I did not belong to that.

*Julius Rosenberg—Defendant—Cross*

(1729)

Q. Was there a Hillel Society up there at City College? A. Yes, I believe there was.

Q. Were you all active in that? A. No, I was not.

Q. How about the others? A. What others?

Q. Those whom you have named. A. I don't know what their activities were.

Q. Well, you don't know that they were active, for instance, in Hillel? A. I do not know.

Q. Were there any civic clubs up there, that you were active in? A. I don't believe there were any civic clubs at the college.

Q. Were there any fraternities that you and that group were members of? A. Mr. Saypol, there was no group.

Q. Well, I am talking now about those that you told us about, that you knew up there. A. Not to my knowledge.

Q. Now, tell us what groups you were active in. A. I stated before, I was a member of the American Institute of Electrical Engineers.

Q. That we know, but what others? Were there others? A. Yes, there were other groups on the campus.

Q. What were they? A. Students council.

Q. Were you active in the students council with them? A. I participated in student council activities.

Q. With Barr and with Elitcher and with Sobell? (1730) A. Not with them; by myself.

Q. What other groups? A. There was the American Students Union on the campus.

Q. Were you active in that? A. I was a member of the American Students Union.

Q. Any others? A. That is all that was on the campus.

*Julius Rosenberg—Defendant—Cross*

Q. Was there a Karl Marx Society? A. To my knowledge, I don't know.

Q. Well, what did you have in mind, what group did you have in mind a moment ago when you raised the question of your constitutional right against self-incrimination?

Mr. E. H. Bloch: I object to the form of the question. I object to its substance, if your Honor please.

The Court: No, I think that is proper. He can tell us what group he had in mind and then assert his privilege.

Mr. Saypol: Let me put it this way to protect the record, if your Honor will allow me.

The Court: All right.

Q. Is there a group that all of you were active in together, as to which you raise the question of your constitutional privilege, that you don't want to tell us about?

(1731)

Mr. E. H. Bloch: I object to the form of that question. I think that is highly improper.

The Court: Well, no, I agree with you, but I do think that this question may be asked:

Do you know what your lawyer had in mind when he took an objection to it?

The Witness: That is in his mind, your Honor, not in my mind.

The Court: In other words, you don't know?

The Witness: No, I don't know.

The Court: You haven't any idea what he had in mind?

*Julius Rosenberg—Defendant—Cross*

The Witness: No.

Mr. Saypol: You see, I don't want to couch it the way I did originally, that is, ask him what the group was to which he objected, because that might be suggestive of an indirect way of getting in what I had in mind.

The Witness: Can I state something, sir?

The Court: Yes.

Mr. Saypol: You will in a minute.

The Court: Let him state.

The Witness: I would like to state, on any answer I made on this question, I don't intend to waive any part of my right of self-incrimination, and if Mr. Saypol is referring to the Young Communist League or (1732) the Communist Party, I will not answer any question on it.

The Court: You mean, you assert your constitutional privilege against self-incrimination.

The Witness: That's right.

By Mr. Saypol:

Q. How about the Steinmetz Club; is that in the same category? A. I do not know, sir.

Q. Were you a member of that? A. Again, sir, I refuse to answer the question on the grounds it might tend to incriminate me.

Q. Well, a moment ago you said you didn't know and—well, do you know, and for that reason you raise the question of privilege? A. (No answer.)

Mr. Saypol: All right, we will move on.

*Julius Rosenberg—Defendant—Cross*

Q. Now, how well did you know Elitcher up there? A. Very casually.

Q. How frequently did you see him? A. Very infrequently.

Q. Once a week? A. No.

Q. Did you go out with him socially? A. I did not.

Q. Did you have girls, girl friends together? A. We did not.

Q. Did you go to dances together? A. We did not.

(1733)

Q. Did you discuss the affairs of the day and politics together? A. I didn't have the occasion while we were at school.

Q. And you graduated in 1939, I think, didn't you? A. That is correct.

Q. In February? A. Right.

Q. Then the next time that you saw him was at a swimming pool for a minute in Washington, in 1940; is that right? A. That is correct.

Q. How long did you see him, for just a minute? A. That's right.

Q. Was he in the water or was he out? A. Outside the water.

Q. What did you talk about in that minute, very much? A. Just, "Hello. I am working in Washington." That is what he said to me.

Q. Then you didn't hear from him or see him again until when? A. Until sometime in '44.

Q. Now, you were a little bit uncertain about the date in 1944, four years from the day you saw him at the



*Julius Rosenberg—Defendant—Cross*

swimming pool; can't you fix the date in a more positive way? A. I cannot, sir.

Q. Well, let's see now. Do you recall when D-Day was in 1944? A. I do not remember the day.

Q. Well, if I tell you that it was June 4th, 1944, (1734) 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? A. No, it would not.

Q. Do you remember hearing him 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.

Q. Were you pleased about the fact of the invasion? A. 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 (1735) was open.

*Julius Rosenberg—Defendant—Cross*

Q. You don't remember talking to him about it that night? A. No, I don't remember.

(1741) . . .

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 (1742) 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.

Q. Well, what was the latest news? A. I don't remember at this time what was the latest news.

Q. That was at or about the time of the invasion—does that perhaps refresh you as to the topic which was discussed between you? A. I can't recall if it was at or about the time of the invasion. It may have been before; it may have been after.

Q. Now you remember while testifying before in response to your lawyer's questions as to conversations at your home sometime in January of 1945 with the Green-glasses, you testified about the comparative systems of

*Julius Rosenberg—Defendant—Cross*

justice in this country and in Russia. Do you recall that.  
 A. I didn't testify that we had a conversation at my house about the comparative systems of justice. I was asked my opinions on it.

Q. Wouldn't that imply a conversation if somebody asked your opinion? A. No. there may have been—

(1742a)

Mr. E. H. Bloch: I object to the form of the question, your Honor.

Mr. Saypol: Well, all right, we won't quibble about it.

Q. You were asked your opinion, and did you give your opinion? A. I did, sir.

Q. How did you do that, in writing or by telegraph or did you talk? A. I just talked on the stand here.

(1743)

Q. Did you talk at the house in January, 1945, about the system of justice here and the system of justice in Russia and the system you preferred? A. That is right.

Q. So you did talk about it, didn't you? A. I don't remember if it was that specific conversation at that time or another time, but I talked about these things.

By the Court:

Q. Was that perhaps the topic that was discussed between you when you talked with Elitcher at his home in 1944, the year before? A. No, it was not.

Q. Was that one of the topics that was discussed at the

*Julius Rosenberg—Defendant—Cross*

family gatherings? A. It was one of the topics we discussed.

By Mr. Saypol:

Q. And was there also discussed so-called Russian advances? A. I don't know what you mean, Mr. Saypol.

Q. Well, I am just reading from my notes as you testified a little while ago, about conversations you had at your home with the Greenglasses in January, 1945. Didn't you tell us before that you expressed your opinion about Russian advances? A. That is right.

Q. Advances in the Russian way of life, is that what you meant? A. No. I am talking about advances their (1744) army made in the winter campaign against the Nazi army.

By the Court:

Q. I believe you were referring, at least I understood your answer to refer, to the advances in the economy and benefit to the people. A. Oh, yes, that is another point I expressed.

By Mr. Saypol:

Q. You did talk about that in January, 1945, in the Greenglasses' household, or rather in your household, is that right? A. I talked about it.

Q. Did you perhaps talk about that with Elitcher in 1944? A. I don't recall talking about it with Elitcher.

*Julius Rosenberg—Defendant—Cross*

By the Court:

Q. Did I understand you to say here, or if you didn't I ask you the question; Did you in 1944 or 1945 state, and I believe you stated on direct but I am not quite sure, that you had thought Russia was carrying the brunt of the war at that point? A. That is right, sir.

By Mr. Saypol:

Q. Of course, you didn't say that in 1945, did you, after the invasion? A. No, I wouldn't say that in 1945.

Q. That opinion you probably expressed before the invasion? A. That is correct.

Q. In other words, you were advocating, too, the (1745) second front? A. Well, here is what I would like to state, Mr. Saypol, that I still felt that the Russians contributed the major share in destroying the Nazi army. That is my opinion even after the invasion.

Q. And Russia as an antagonist and a participant in the war you felt was entitled to more help than the allies were giving to her? A. I didn't say that, Mr. Saypol.

The Court: He is asking you whether you felt that.

The Witness: No. I felt that Russia should get as much help as possible to help them defeat the Nazis.

By the Court:

Q. Well now, did you feel that if Great Britain shared in all our secrets that Russia should at the same time

*Julius Rosenberg—Defendant—Cross*

also share those secrets in 1944 and 1945? A. My opinion was that matters such as that were up to the Governments, the British, American and the Russian Governments.

Q. You mean the ultimate decision? A. Yes.

Q. Well, what was your opinion at that time? A. My opinion was that if we had a common enemy we should get together commonly.

By Mr. Saypol:

Q. Was that predicated on your feeling that we were (1746) not doing enough for Russia? A. It wasn't predicated on that.

Q. What was it predicated upon? A. My opinion—

Q. What did you form your opinion on? What basis? A. Mr. Saypol, I am no expert on those matters or authority on those matters.

Q. Well, what did you know about the subject to express an opinion? Did you talk about it with others?

A. I read it in the newspapers.

Q. Did you talk about it in groups? A. Socially, when people came over to the house.

Q. Did you talk about it perhaps in any Communist unit that you might have belonged to? A. I refuse to answer that question on the ground that it may incriminate me.

Q. Now, in connection with your express opinions on the Russian situation with relation to the war effort, did you do—

The Court: I want the jury to understand that they are to draw no inference from the witness's

*Julius Rosenberg—Defendant—Cross*

refusal to answer on his assertion of privilege.  
Proceed.

Q. Did you do anything else besides talk in respect to your feeling, your opinion about the Russian position in the war? A. I didn't do anything else but express my opinion.

(1757) . . . .

Q. Were you a member of the Communist Party? A. I refuse to answer on the ground that it might incriminate me.

Q. Is it not a fact that in February 1944 you transferred from Branch 16-B of the Industrial Division of the Communist Party to the Eastern Club of the First Assembly District under Transfer No. 12179? A. I refuse to answer.

Q. Is that one of the charges Captain Henderson read to you? A. That is.

Q. Did Captain Henderson advise you at that time that information had been received that while a student at City College you signed a petition for the granting of a charter to a chapter of the (1758) American Student Union, which has been reported to be or had been under the influence of communists? A. He informed me.

Q. Is that the fact? A. I don't remember.

The Court: Mr. Saypol, I suggest that you get to your destination on this. I don't think that we ought to pursue this particular line in view of the witness's expression that he is going to assert his privilege on the entire line.

*Julius Rosenberg—Defendant—Cross*

Mr. Saypol: Well, a moment ago, if the Court please, he admitted and testified from the stand that he had been a member of the American Student Union. Now he says he doesn't remember it a few minutes later.

The Court: Very well.

Mr. E. H. Bloch: I don't think the witness answered that.

The Court: Don't characterize the answer. Leave that for the jury. I think you understand the point very well, Mr. Saypol.

(1759)

By Mr. Saypol:

Q. Is it the fact—

Mr. Saypol: I would want to ask your Honor for a recess in just a moment; I want to finish this topic.

The Court: All right.

Q. Is it not the fact that you were removed from that position for that reason—for these reasons, that you were a member and you were active in the party?

Mr. E. H. Bloch: I have so conceded, your Honor.

Mr. Saypol: All right.

Q. Now in connection with those charges—

The Court: Wait, let us get this clear. You did not concede, as I understand it, that he was removed because he was a member. You concede, as I re-

*Julius Rosenberg—Defendant—Cross*

member, that he was removed because of the charges.

Mr. E. H. Bloch: That is correct.

The Court: Well, you just said that you will concede that he was a member.

Mr. E. H. Bloch: Oh, no, I do not mean that at all. I cannot make any such concession at all.

The Court: I just want to make sure that you understood what you are conceding.

Mr. E. H. Bloch: Well, I am conceding this, that this witness was removed from Government service (1760) upon certain charges that were preferred against him under the authority of the Secretary of War.

The Court: I understand that.

Mr. E. H. Bloch: And that one of those charges was that he was a member of the Communist Party.

The Court: Very well.

Mr. Saypol: The state of the record is that when I asked a direct question now the witness raises the question of privilege and refuses to answer.

The Court: That is right.

Q. Now at that time in response to these charges did you file an answer, Mr. Rosenberg? A. I did.

Q. And do you remember having, on April 3, 1945, made the following statement in a communication to the Commanding Officer of the Newark Signal Corps, "3. On 28 March 1945, I appeared before the Intelligence Officer of the Newark Signal Corps Inspection Zone and copied excerpts from a written statement of charges read to me by Captain Henderson in the presence of two other officers.

"4. Those charges allege, first:

*Julius Rosenberg—Defendant—Cross*

"That you are a communist member. It is alleged that you transferred from Branch 16-B Industrial Division of Communist Party to the Eastern Club of the 1st Assembly District, N.Y., under Transfer No. 12179, in February 1944.'"

(1761)

And then you go on to say: "I am not now, and never have been a communist member. I know nothing about communist branches, divisions, clubs or transfers. I never heard either of the Division or the Club referred to. I had nothing to do with the so-called transfer. Either the charge is based on a case of mistaken identity or is a complete falsehood. In any event, it certainly has not the slightest basis in fact."

Did you make that answer to those charges, yes or no? A. I refuse to answer a question on the contents of that letter.

Q. I ask you whether you made that answer to those charges as I have read them to you?

Mr. Bloch: May I advise the client, your Honor, that he should answer that question yes or no.

The Court: Very well.

A. Yes, I sent the letter in answer to those charges.

Q. Was that answer true at the time you made it? A. I refuse to answer.

Mr. E. H. Bloch: Now I desire to advise the client that at this point he can exercise his privilege.

*Colloquy of Counsel*

The Court: What privilege?

Mr. E. H. Bloch: I assume the privilege against self-incrimination.

(1762)

The Court: Now I am not quite clear on what particular phase does he claim he is incriminating himself; is it on the basis of communism or on the basis of previous perjurious statement or something of that character?

Mr. E. H. Bloch: Not a previous perjurious statement, although I think that also might be a good ground. You see, a perjury only goes—let me put it this way—

The Court: That would not be a good ground.

Mr. E. H. Bloch: Yes, it might if it relates to another perjury that I think—

The Court: It would be directly related to this one.

Mr. E. H. Bloch: At any rate I didn't want to raise any question about perjury. This is a legal argument, I assume, but I think on the question of communism—

The Court: All right, let me hear the question read again.

(Record read.)

Mr. Saypol: I press for an answer.

Mr. E. H. Bloch: Now, if the Court please, may I be heard?

The Court: Yes.

(1763)

Mr. E. H. Bloch: Is the witness exercising his privilege?

*Colloquy of Counsel*

The Witness: I am, sir.

Mr. E. H. Bloch: All right, now I would like to be heard in support of sustaining of the privilege.

Mr. Saypol: If that is so perhaps the Court may desire to take a recess at this point and we will continue because it will probably take a few minutes.

The Court: All right. Ladies and gentlemen, you will be asked to return Monday morning at 10.30. In the meantime I want to wish you all a very happy Easter and a pleasant week end.

(Jury excused).

. . . .

(1772) . . .

JULIUS ROSENBERG, resumed the stand.

Mr. Saypol: Shall I proceed?

The Court: Yes.

Mr. Saypol: At the recess on Friday, if the Court please, the posture of the case was this: There was before the Court my motion to direct the witness to answer a question in relation to his prior denial of membership in the Communist Party and his assertion here of the privilege against self-incrimination.

I have given some consideration to that over the weekend and premised on the main issue in the case as charged in the indictment and an expression of the same character as that of the Court

*Julius Rosenberg—Defendant—Cross*

to the effect that this issue ultimately should be resolved by the jury, as to the guilt or innocence based on the indictment rather than on the collateral, or I should say the related but not primary issue of membership in the Communist Party, I will withdraw my request at this time and I do so also in the interest of expedition.

The Court: Very well.

(1899) . . .

Q. Are you a member of the Communist Party today?

Mr. E. H. Bloch: I object to the question upon the ground it is incompetent, irrelevant and immaterial.

The Court: Well, let's see.

A. I refuse to answer that question.

(1900)

Q. Were you a member of the party—

The Court: You mean, on the ground that to do so will tend to incriminate you?

The Witness: That's right; will tend to incriminate me.

Q. Were you a member of the party in 1944 and '45?

A. I still refuse to answer the question.

. . .

(2167) . . .

## SUMMATION BY MR. E. H. BLOCH

. . .

(2172) . . .

Now, you have been fortunate in a way—this is a very celebrated case—and you have been unfortunate in another way. You have been fortunate because you have seen unfolded before you one of the most moving dramas that any human being could concoct. You have (2173) seen a brother testify against his sister, in a case where her life might be at stake. You have seen issues dealing with the atomic bomb, the most terrible and destructive weapon yet invested by man. This case is packed with drama. Playrights and movie script writers could do a lot with a case like this. You have been fortunate. You had a front seat.

But because you had that front seat, you also are unfortunate, because now your job has to be done. You have a very heavy, you have a very serious responsibility. You have to weigh the guilt or innocence of another human being, charged with a serious and grave part, and you have to determine from your judgment, from your conscience, from your honest understanding and conviction, whether or not these human beings, that you are judging, are going to be convicted, with a possible death penalty, or whether or not these human beings are going to be acquitted.

. . .

(2207)

Now I will tell you what the plot of the Greenglasses was here. Two-fold. Greenglass figured that if he could put

*Summation on Behalf of Rosenbergs*

the finger on somebody, he would lessen his own punishment; and he had to put the finger on somebody who was here in the United States, and he had to put the finger on somebody who was a clay-pigeon; and that man sitting there (indicating defendant Julius Rosenberg) is a clay-pigeon, because he was fired from the Government service, because it was alleged that he was a member of the Communist Party; and he was a guy who was very open and expressed his views about the United States and the Soviet Union, which may have been all right when the Soviet Union and the United States were Allies, but today it is anathema; and you heard him testify, and he said it openly here, he didn't try to conceal it, "Yes, I thought that the Soviet did a lot for the underdog and they did a lot of reconstruction work" and he went on to recount one or two other things that he felt should be to their credit. . . .

(2229) . . .

But I say that there is a very serious dispute as to what Rosenberg said to Elitcher. Do you believe, do you believe, that a man who hasn't seen a classmate of his for six years, will walk into his house and before he is even there an hour he will say to the man, "Get your wife out of the room," and then right there and then make an offer to him to commit espionage? Do you want to believe that kind of a story? Does that sound credible to you? If Sobell was Elitcher's friend, and if Sobell is in cahoots with Rosenberg, then don't you think the logical person to have made the overture would have been Sobell, not an almost complete stranger? Rosenberg had seen him for a

*Summation on Behalf of Rosenbergs*

fleeting moment at a swimming (2230) pool in 1940, but to all intents and purposes, Elitcher and Rosenberg were not friends; they were classmates, who casually saw each other. Do you believe a man is going to come in and make that kind of an overture? There is no doubt in my mind that they discussed politics, and there is no doubt in my mind that Rosenberg said at that time, as he said to you quite honestly, what he thought of the Soviet Union and whether or not there was a second front. Of course people talked about those things. It is a far cry, however, from making an overture to commit espionage.

(2238) . . .

I don't care, ladies and gentlemen, I don't care whether or not you disagree or whether you all agree at one time or another, one thing along I ask you, I am entitled to ask that of you under the law, I am entitled to ask—these defendants are entitled to ask that of you as human beings: Please take the evidence and sift it, analyze it, take what I said, take what Mr. Saypol is going to tell you, take what Mr. Kuntz (2238-A) is going to tell you when he sums up for Sobell—take these things, weigh them, weigh them carefully, because in your hands human lives are at stake.



(2239)

## SUMMATION BY MR. KUNTZ

. . . .

(2241) . . .

I am not going to be charitable like Manny Bloch. I have tried cases a little longer than he has. I am through being charitable when the life of a man depends on my actions and my words. I didn't sleep throughout this trial because the life of a man depends on what I do, and let me tell you right now, that whatever conduct took place in this court about witnesses or anything that was said before you, that is on the shoulders of Mr. Phillips and myself; don't put it on anybody's else's shoulders. But I am not going to be as charitable as Manny Bloch with this Elitcher.

Why should I be charitable? When I cross examined him, I asked him, "Elitcher, aren't you a liar?" and he said, "Yes."

"Aren't you a perjurer?" He said, "Yes."

How could I be charitable with a liar and perjurer? Why? Do you and I make it a habit of excusing liars and perjurers? You know, and you probably have met them in your experience, we have people who are (2242) psychotic liars, we call them. You feel sorry for them. You think they ought to have treatment, and by the way, if I remember right, it is three weeks ago, but if I remember right, Elitcher had been getting treatment for a couple of years, but let that go; that is not the thing I am driving at. Elitcher was not a psychotic liar; he was a miserable liar, a man who will involve, who will kill another man to save his own miserable skin.

The Court: Let me say right here, ladies and gentle-

*Summation on Behalf of Sobell*

men, there is not to be before you and you are not to consider what punishment this Court might mete out in the event that you bring back a verdict of guilty. I have told you that time and time again. I haven't interrupted either of the counsel up to this point when they have talked about lies or murder or "will kill." I want you to disregard that completely, because what this Court will do at this very moment is even unknown to this Court. Proceed.

Mr. Kuntz: All I know is what I read in the statute, and that, I presume, is something that I can comment on, and the statute says for this crime that Mr. Elitcher is trying to prove Mr. Sobell guilty of, he can get up to thirty years or death. That is what the statute says.

. . . .

(2245) . . .

Do you remember that testimony? Sobell lived with Elitcher in Washington. They had been friends for a long time. They saw each other. Their houses are back to back in Flushing. Rosenberg did not meet him for six years. All of a sudden he comes in and says, "Come on, help us to commit espionage," even though it might mean a death sentence.

. . . .

(2254) . . .

Well, for goodness' sake, what kind of stuff is that? What is the Government—excuse me, what is Saypol handing you? On the basis of that he said to you, "We will convict this man under a statute that may take his life."

. . . .

(2266) • • •

## SUMMATION BY MR. SAYPOL

• • • •

(2285) • • •

There is no condonation for the activities of the Greenglasses in 1944 and 1945. David Greenglass is a confessed member of the Rosenberg espionage ring. You heard his testimony and you observed him. You heard him confess his guilt. You heard him describe in detail his participation in this conspiracy. By his own plea of guilty, by his own voluntary act, without weaving a web of lies in an attempt to deceive you, he has made himself liable to the death penalty, too. The spurious defense that Greenglass, or the Greenglasses, in order to satisfy a business grudge, a business dispute against the Rosenbergs has concocted a story about espionage, making himself liable to the capital penalty by his plea of guilty because of this business disagreement, is as much of a concoction as the story of the defendants that Greenglass went to his worst enemy, Julius Rosenberg, for help when he wanted to flee the country.

• • • •

(2289) • • •

The history of this Jello box side, the greetings from Julius and Greenglass's whereabouts in Albuquerque come to us not only from Ruth and David, but from Harry Gold in this courtroom—a man concerning whom there cannot even be a suggestion of motive because, as far as he is concerned, the die has already been cast. The charges against him have already been disposed of. He has been sentenced to thirty years, the maximum term of imprisonment. He can gain nothing from testifying as he did in this courtroom except the initial relief, the

*Government Summation*

moral satisfaction in his soul of having told the truth and tried to make amends. 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.

• • • •

(2372) • • •

The Court: Very well, the jury will retire.  
(Jury retired at 4:53 P.M.)

(2373)

(The following took place at 6.30 p.m. in chambers:)

The Court: I have a communication from the jury, gentlemen. This jury would like a copy of the indictment and the jury would like a list of the witnesses. This is signed by the foreman.

Mr. Schaefer, you have a copy of the indictment. The list of witnesses, I think you ought to get together and agree upon between yourselves. Submit the list by agreement and we will send it in.

(At 6.40 p.m. the following took place:)

The Court: All right, now, gentlemen, the indictment and the list of witnesses are about to be sent in. You have all examined it and I take it it is perfectly agreeable with everybody.

Mr. Saypol: Satisfactory.

Mr. E. H. Bloch: All right.

Mr. Kuntz: The only thing, they may have meant the whole list.

The Court: They will let us know in a couple of minutes.

• • • •

OPTIONAL FORM NO. 10  
5010-103

UNITED STATES GOVERNMENT

# Memorandum

TO : Director,  
Federal Bureau of Investigation

DATE: October 25, 1962

FROM : *me* Wm. A. Geoghegan  
Assistant Deputy Attorney General

SUBJECT:

The attached copy of a letter received by Dick Chappell lists the name of persons who will testify at Morton Sobell's parole hearing on October 30. A name check of your files on the persons listed is requested.

REC-116

OCT 31 1962

OCT 31 1962

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED  
DATE 4/28/87 BY 3042 PWT/lmn

ENCLOSURE

Sobell

6 juB

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED  
DATE 4/28/87 BY 3042 PWT/1mw

ENCLOSURE

ENCLOSURE

101-2483-1505



# Committee To Secure Justice For Morton Sobell

940 BROADWAY (ENTRANCE ON 2ND STREET) NEW YORK 10, N. Y.

November 4, 1962

October 10, 1962

2-18400

Mr. Richard A. Chappell  
U.S. Board of Parole  
First and D Streets, NW  
Washington, D. C.

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED  
DATE 4/25/81 BY 3040 PWT/lmw

Dear Mr. Chappell,

In accordance with the statutory provisions and administrative directives set forth by your office,

we have applied for and been granted a hearing on October 30, at 10 A.M. I now wish to inform you of the other interested people who wish to attend.

The following have informed me that they are planning to attend to speak on behalf of my husband, Morton Sobell.

Will testify for my husband

- Rev. David Andrews, Methodist, Baltimore, Md.
- Rev. David Colwell, Washington, D. C.
- Gerhard Van Arkel, Washington, D. C.
- Burns A. Chalmers, Washington, D. C.
- Prof. Lloyd Donnell, Chicago, Ill.
- Prof. Thomas Emerson, New Haven, Conn.
- Rev. John Evans, Columbus, Ohio
- Dr. Erwin Guede, Ann Arbor, Mich.
- Rabbi Philip Horowitz, Cleveland, Ohio
- Prof. William Kunstler, New York City
- Dr. Tom Levin, New York City
- Donald McDonald, New York City
- Donald McDonald, New York City

Dr. Charles and Lillian Brown, London, England

I am sure that it is the practice of the Parole Board to give the most careful consideration to each individual case which is brought before it. Particularly in many years of the life of a person are involved, as in the present instance, every opportunity should be granted to him to present his case. The viewpoints to be presented will be brief and reflecting the serious thought and close study of this matter.

This is the 13th year of my husband's imprisonment. We wish to present the strongest possible case for his parole.

Very sincerely yours,

Copy to the President  
Copy to the Justice Dept.

Dr. Morton Sobell

- Rev. C. Stedman
- Rev. Erwin A. Guede
- Maxwell Coleman
- Rabbi Robert E. Geller
- Prof. Edwin R. Geller
- Right Avery Grotzfeld
- Dr. M. Eugene Hayden
- Russell Johnson
- Rev. John Paul Jones
- Rev. Joseph P. King
- Dr. Paul L. Lohmann
- Dr. Milton Lerner
- Donald C. McDonald
- Dr. Lee M. M...

- Rev. Peter McCormack
- Dr. Gordon Murphy
- Rev. Dayton Lester Packer
- Prof. Dale Pennington
- Howard B. Rabin
- Prof. Arnold Rapoport
- Prof. Doris K. Rine
- Lord Bernard Russell
- Prof. Malcolm Sharp
- Dr. D. B. Sharpe
- Sidney Silverman, M.P.
- Rev. Francis S. Tuckel
- Dr. Harold C. Dow
- Miss Clara M. Vincent
- Rabbi Jacob J. Weintraub
- Prof. Francis D. Werneke

~~CONFIDENTIAL~~

Mr. William A. Geoghegan  
Assistant Deputy Attorney General

October 30, 1962

Director, FBI

101-2483-1505

NAME CHECK REQUESTS

~~SECRET~~  
Classified by *SP-1/LLC*  
Declassify on: OADR

- 1 - Mr. Belmont
- 1 - Mr. Rosen
- 1 - Mr. Evans
- 1 - Name Check Section
- 1 - Mr. Sullivan
- 1 - Mr. Brown

Reference is made to your letter dated October 25, 1962, in which you furnished a copy of a letter dated October 16, 1962, received from Mr. Richard A. Chappell. This letter listed a group of sixteen individuals who were planning to attend a parole hearing to speak on behalf of Morton Sobell. It was requested that a name check be conducted concerning these sixteen individuals.

The Bureau has not conducted an investigation of and our files contain no pertinent data identifiable with Reverend David Colwell, Doctor Tom Levin, Donald MacNamara, and Sir Charles and Lady Snow.

With reference to Gerhart P. Van Arkel, referred to reports which have been furnished the Department under his name in 1954, involving a Fraud Against the Government - Conflict of Interest investigation. Briefly, the basic factor involved in this investigation was Van Arkel's private practice of law while a professional staff assistant on the Senate District Committee. Also information was furnished the Department on February 23, 1960, under the caption "Committee to Secure Justice for Morton Sobell." Information concerning Van Arkel's participation in this committee is set forth.

*X Summary*

With regard to Burns A. Chalmers, Bureau files reveal that several reports have been furnished the Department in the investigation involving [redacted] during 1958. Information concerning Chalmers is contained in these reports. Also information concerning "Doctor A. B. Chalmers" appears in a report furnished the Department in 1961 involving the Washington Area Committee for the Abolition of the House Un-American Activities Committee. Bureau files further reveal that Chalmers' name was included in a group from a delegation which presented a clemency petition to the President concerning Carl James Braden and Frank Byron Wilkinson, both convicted for contempt of Congress for refusing to answer questions concerning their communist affiliations.

WAB:CSW  
(9)

NOV 5 1962

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~~CONFIDENTIAL~~

MAIL ROOM ☐ TELETYPE UNIT ☐

MAILED 27  
OCT 30 1962  
ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED  
EXCEPT WHERE SHOWN  
OTHERWISE

Belmont  
Mohr  
DeLoach  
Casper  
Callahan  
Conrad  
Felt  
Gale  
Rosen  
Sullivan  
Tavel  
Trotter  
Tele. Room  
Holmes  
Gandy

Classified by *3042 PWT/*  
Declassify on: OADR *Imw*  
*4/24/87*

206402  
O.C.  
NOV 2 1962  
U.S. DEPT. OF JUSTICE

Mr. William A. Geoghegan  
Assistant Deputy Attorney General

~~SECRET~~

~~CONFIDENTIAL~~

Chalmers' name also appeared in connection with the Committee to Secure Justice for Morton Sobell. Various reports concerning this matter were furnished the Department in 1961.

Regarding Thomas Irwin Emerson, you are referred to a report dated at Washington, D.C., March 16, 1961, entitled "Thomas Irwin Emerson, Security Matter - C," which was furnished to the Department April 11, 1961, and to other reports furnished the Department periodically since October, 1954.

Briefly, these reports reveal association on the part of Professor Emerson with Communist Party activities. In 1950, an informant who has furnished reliable information in the past advised that Professor Emerson was a concealed communist who would never represent himself as a communist and would at all times deny membership in the Communist Party. This informant stated that during the early 1940's he had heard of Professor Emerson as one who worked for communist causes.

With reference to Reverend John Evans, Bureau files reveal that he has been the subject of a Bureau investigation since the early 1950's. Reports of the investigation have been furnished the Department on various dates during the 1950's. This investigation briefly indicates that Reverend Evans, a Unitarian minister, has been a member of a number of communist front groups and has been active in such committees as the Committee for Defense of Victims of the Smith Act. Evans' wife, Kathleen, has also been active in similar organizations.

With regard to Reverend Erwin Gaede, our files reveal that he has been the subject of a security-type investigation since 1955. The investigation discloses that Reverend Gaede, a Unitarian minister, has been active in numerous communist front groups and in the Committee to Secure Justice for Morton Sobell. Reports of this investigation were furnished the Department on November 8, 1961.

Concerning Dwight Macdonald, our files reveal that an investigation was conducted of Dwight Macdonald, with alias McCarthy, and the magazine, "Politics." Reports of this investigation were furnished the Department during 1956.

~~SECRET~~

~~CONFIDENTIAL~~



Mr. William A. Geoghegan  
Assistant Deputy Attorney General

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Briefly, the investigation indicated that MacDonald joined the Socialist Workers Party, a Trotskyite group, in approximately 1937 and left this group in 1940. He later became identified with the Workers Party which he left in 1941 allegedly because he could not accept Bolshevism in its original form. During the 1940's, Mac Donald had a bimonthly magazine, "Politics," which has been described as a pacifist publication critical of all countries and persons supporting forceful means for settling international objectives. Generally MacDonald has been identified with numerous peace groups and has been described as anticommunist.

There are enclosed herewith memoranda concerning five individuals about whom information was requested which sets forth information available in our files which has not previously been disseminated to the Department.

Enclosures (5)

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1 - Mr. Belmont 1 - Mr. Sullivan  
1 - Mr. Rosen 1 - Mr. Woods  
1 - Mr. Evans 1 - Name Check Section

October 30, 1962

**REVEREND DAVID ANDREWS**

No investigation has been conducted by this Bureau concerning Reverend David Andrews; however, this Bureau's files reveal his association with the Committee to Secure Justice for Morton Sobell. *O.C.*

In December, 1961, Reverend Andrews was arrested for kneeling in front of the White House in behalf of Morton Sobell. His purpose in kneeling in behalf of Sobell was in protest of the prison sentence being served by Sobell. *m.d.*

Additionally, this Bureau's files reveal that Reverend Andrews has not only been active in behalf of Morton Sobell, but has participated in peace movements and other demonstrations in the past. *n.c.*

*Formerly Affiliated with*

Reverend Andrews was previously affiliated with the Western North Carolina Methodist Conference but as of September, 1962 was known to have been transferred by the Western North Carolina Methodist Conference to the Baltimore area of the Central Negro Jurisdiction. (104-100427)

*WFW*

WFW:csu  
(8)

**NOTE:** Enclosure to letter to Mr. William A. Geoghegan, Assistant Deputy Attorney General, dated 10-30-62.

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED  
DATE 12-84 BY SP7 JPL/la  
4/08/87 3043 PWT/lmw

101-2483-1505  
ENCLOSURE

MAIL ROOM ☐ TELETYPE UNIT ☐

- 1 - Mr. Belmont
- 1 - Mr. Evans
- 1 - Mr. Sullivan
- 1 - Mr. Rosen
- 1 - Name Check Section
- 1 - Mr. Brown

**CONFIDENTIAL**

October 30, 1963

*Summary*

PROFESSOR LLOYD DONNELL

DECLASSIFIED BY 3045 PWT/lm  
ON 4-28-87

One Lloyd Hamilton Donnell, a Professor of Mechanics at the Illinois Institute of Technology, as of 1951, has been the subject of a security-type investigation conducted by this Bureau during the early 1950's. The investigation did not reveal any substantial derogatory information concerning Professor Donnell; however, it did reveal that he was on the mailing list of the Progressive Party of Illinois in 1949 which party was dominated and controlled by the Communist Party, District No. 8. Also information received from an informant who has furnished reliable information in the past indicated that the name L. H. Donnell was filed with the Chicago Council of Arts, Sciences and Professions in February, 1950. This organization has been described as a communist front.

This Bureau has also conducted a security-type investigation concerning Sylvia K. Donnell, nee Kasmansky. The investigation revealed that she was born in Russia, naturalized in the United States in 1925, and informants who have furnished reliable information in the past have indicated that she was a charter member of the Communist Party in California in 1933. She maintained the records of the Communist Party in the Pasadena, California, area and continued active participation in Communist Party affairs during the 1930's. Records revealed that Sylvia Kasmansky was married to Lloyd Hamilton Donnell in February, 1931. Our investigation further revealed that she has been active in the Progressive Party in Chicago, has been a consistent reader of communist publications, and during the 1940's and early 1950's continued to make utterances in favor of Russia and particularly against the American participation in the Korean conflict.

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(100-377156)  
(105-12177)

Enc to letter to Mr. William A. Geoghegan,  
Assistant Deputy Attorney General, dated  
10/30/62.

101-2483-1505

ENCLOSURE

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1 - Mr. Belmont 1 - Mr. Sullivan  
1 - Mr. Rosen 1 - Name Check Secti  
1 - Mr. Evans 1 - Mr. Woods

October 30, 1962

*Ohio*

**RABBI PHILIP HOROWITZ**

No investigation has been conducted by this Bureau concerning Rabbi Philip Horowitz.

This Bureau's files reveal that according to an article in the "Cleveland Plain Dealer" dated at Cleveland, Ohio, December 24, 1960, Rabbi Horowitz stated that Morton Sobell was a victim of what seems to be "a vicious form of anti-Semitism." Rabbi Horowitz, according to the article, had studied the Sobell case for two and a half years and in November, 1960, presented petitions to the Government asking clemency for a new trial for Sobell. The article continued, "I can almost believe that Morton Sobell was a victim of a vicious form of self-hatred, a form of negative anti-Semitism. Irving Kaufman, the judge, was a Jew; Irving Sapol, the prosecutor, was a Jew; Roy Cohn, the assistant to the prosecutor, was a Jew; and I can almost believe all of their reactions stem from the fact that they wanted to prove to the world around them that they would take care of this Jew who was a source of embarrassment to them."

There are numerous references in this Bureau's files which relate to Rabbi Horowitz and his interest in the Morton Sobell case as well as his attacks on the House Un-American Activities Committee. (100-434512)

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED

DATE 8-28-84 BY SP2 JTF/CS

WFW: csw  
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NOTE:

Enclosure to letter to Mr. William A. Geoghegan,  
Assistant Deputy Attorney General, dated 10-30-62.

4/28/87 3042 PWT/lmw

101-2483-1505

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1 - Mr. Woods

October 30, 1962

*Summary*

**WILLIAM KUNSTLER**

No investigation has been conducted by this Bureau concerning William Kunstler, an attorney practicing in New York City.

This Bureau's files reveal that Mr. Kunstler, American Civil Liberties Union Attorney of New York City, was in July, 1961, in Jackson, Mississippi, representing freedom rider, Elizabeth Porter Wyckoff, in habeas corpus proceedings. At that time, he informed newspaper reporters that he had been retained by freedom rider prisoners, Marion Alice Kendall and Frank Arthur Nelson, who at that time were confined in the Mississippi State Penitentiary at Parchman.

Other references to Mr. Kunstler in this Bureau's files reveal his legal association with other freedom riders.

William Kunstler, according to an article appearing in "The Worker," was one of twenty-five law professors who endorsed Justice Hugo Black's dissent from the five to four Supreme Court decision of June 5, 1961, requiring the Communist Party to register with the government.

"The Worker" has been cited by the Committee on Un-American Activities, Annual Report for 1958, House Report 187, March 9, 1959, Page 9.

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED  
DATE 6-2-84 BY SP2 TAF/ce  
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**NOTE:** Enclosure to letter to Mr. William A. Geoghegan, Assistant Deputy Attorney General, dated 10-30-62.

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1 - Mr. Brown

~~CONFIDENTIAL~~

October 20, 1962

X  
ANNALEE STEWART

D.C.

Annalee Stewart and her husband Alexander Stewart are Methodist ministers and as of April, 1962, resided in Washington, D.C.

A security-type investigation conducted by this Bureau during 1962 indicates that she is a past president of the Women's International League for Peace and Freedom and is currently its National Legislative Secretary. The name of Annalee Stewart appeared on the mailing list of the Fair Play for Cuba Committee as of November, 1961. During 1960 she was active in the Washington Committee for a Sane Nuclear Policy and a proposed speaker at a Committee to Secure Justice for Morton Sobell banquet to be held during 1960. Her name has appeared on the mailing lists of the Proletarian Party of America in 1950, Minute Women for Peace, 1952, and on a petition to the President of the United States urging "Amnesty for Smith Act Victims" in 1956.

In November 1961, Annalee Stewart was in contact with a [REDACTED]

(100-437185)

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Classified by [REDACTED]  
Declassify on: OADR

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Declassify on: OADR 4/28/87

Enc to letter to Mr. William A. Geoghegan, Assistant Deputy Attorney General, dated 10/30/62.

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MAIL ROOM ☐ TELETYPE UNIT ☐

# FEDERAL BUREAU OF INVESTIGATION

REPORTING OFFICE <b>NEW YORK</b>	OFFICE OF ORIGIN <b>NEW YORK</b>	DATE <b>12/11/62</b>	INVESTIGATIVE PERIOD <b>11/19/62</b>
TITLE OF CASE <b>MORTON SOBELL aka</b>		REPORT MADE BY <b>CARLYLE W. MILLER</b>	TYPED BY <b>caa</b>
		CHARACTER OF CASE <b>ESPIONAGE - R</b>	
<div style="border: 1px solid black; padding: 5px; display: inline-block;"> CC TO: <i>State (Cuba)</i>  REQ. REC'D <i>7-8</i>  <b>AUG 16 1967</b>  ANS. BY: <i>Prof. Sub</i> </div>		APPROPRIATE AGENCIES AND FIELD OFFICES ADVISED BY ROUTING SLIP(S) OF <i>Classification</i>	
		DATE <i>5-20-78</i>	

**REFERENCE:**

Report of SA CARLYLE W. MILLER, 12/11/61, at NY.

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED EXCEPT  
WHERE SHOWN OTHERWISE.

**ADMINISTRATIVE:**

- P\* -

Classified by *3042 PWT/1mw*  
Declassify on: *DADR 4/29/87*

APPROVED: *[Signature]* SPECIAL AGENT IN CHARGE

COPIES MADE:

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1-New York (100-37158)

**TOP SECRET**

Classified by *2352* *WAB* *for 12/20/75*

Exempt from GDS, Category *13*

Date of DISSEMINATION RECORD OF ATTACHED REPORT *12/20/75*

AGENCY.....	RAA	REQUEST REC'D.....	DATE FWD.....	BY FWD.....
			<i>12-20-62</i>	<i>RS</i>
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DO NOT WRITE IN SPACES BELOW

**101-2483-1506** REC.

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EX-105

**NOTATIONS**

Deleted Conv Sent *Sanford Kat*  
by Letter Dated *12-29-76*  
Per FOIPA Request

**CONFIDENTIAL**