

WHAT WAS THE ROSENBERGS' "CRIME"?

Were the Rosenbergs condemned to die for "espionage" or because of alleged radicalism? Is the Justice Department using a nazi tactic?

By William Reuben

WHAT is the "crime" that has lodged Ethel and Julius Rosenberg in the Death House at Sing Sing prison?

Ostensibly, their government prosecuted and convicted the progressive New York couple, devoted parents of two small children, on the charge of having committed espionage in behalf of the Soviet Union. But, in the November issue of *JEWISH LIFE*, after examining the "evidence" of the government's case, we suggested that the Rosenbergs' only "crime" may have been their holding of radical ideas.

In last month's article, it was pointed out that the government failed to offer a shred of documentary evidence linking the couple to acts of espionage; that only two exhibits placed in evidence by the government had any direct link to these defendants: a Spanish Refugee Appeal collection can and a petition signed in 1941 by Ethel Rosenberg and 50,000 other New Yorkers nominating Peter Cacchione, the successful Communist Party candidate for New York City councilman; and that the government's case was based on the oral and unsupported testimony of David and Ruth Greenglass who escaped prosecution and the possible death penalty for their own admitted acts of espionage by testifying against the Rosenbergs. In other words, we showed that the government's case was, to say the least, flimsy. This suggests that, to grasp the real meaning of the Rosenbergs' conviction, we shall have to see what lies beneath the surface presentation of the government's case.

Real Meaning of the Case

A broad hint of the underlying meaning of the case was given recently by the New York *World-Telegram's* red-baiting "expert," Nelson Frank. Last September 11, in an article dealing with the then impending National Labor Relations Board election at General Electric's Schenectady, N. Y., plant, Frank observed: "No one in the country has done more to put the fear of law into the Communists than Federal Attorney Irving Saypol, who by getting a death sentence in the Rosenberg Communist-espionage case let Moscow's local pals know America was playing for keeps."

What, we may surely ask, is the connection between an NLRB labor election in which right and left wing-led

WILLIAM REUBEN is special reporter for the *National Guardian* and provisional chairman of the National Committee to Secure Justice in the Rosenberg Case. In his article last month Mr. Reuben outlined the facts of the case.

unions were contending for the right to represent GE's workers and this country's highly publicized first atom bomb spy trial? There is, of course, no connection. But what the *World-Telegram's* "expert" on Communism has obligingly, though unwittingly, done is to give away the true import of the Rosenberg case: the attempt on the part of the government to make "Communist" and "espionage" synonymous terms; and the threat that anyone who affiliates with a group or organization that can be smeared as "Communist" must do so with the awareness that a death sentence can be held over his head for such affiliation.

When the Rosenberg trial got under way, Attorney Saypol in his opening remarks assured the jury that: "The evidence will show that the loyalty and the allegiance of the Rosenbergs were not to our own country, but that it was to Communism, Communism in this country and Communism throughout the world. . . . The evidence will prove to you, not only beyond a reasonable doubt, but beyond any doubt, that these defendants have committed the most serious crime which can be committed against the people of this country." As we have seen from our examination of this "evidence," it is absurd for the prosecutor to contend that the government's case, which rested on the oral and unsupported testimony of witnesses who had lengthy jail sentences hanging over their heads, would prove "beyond any doubt" the guilt of the defendants. Thus we may well assume that "the most serious crime" to which Saypol alludes is not encompassed by the formal charge of espionage, under which the defendants were brought to trial.

The Open "Secret"

Underlying the government's demand for a death sentence and the expressed reason given by Judge Irving Kaufman for imposing that sentence was the claim that the Rosenbergs stole the "secret" of the atom bomb and turned it over to the Russians. How do the facts square with this contention?

Last December, in the opening paragraph of a news story datelined Washington, D. C., Hearst's International News Service reported: "The Atomic Energy Commission Friday bared secret documentary proof that Russia has known the scientific secrets of atom bomb manufacture since 1940, the year the United States began attempts to develop the missile." The AEC has thus shown it to be a myth that there is a "secret" to the atom bomb.

But perhaps this most authoritative government body is in error. What do scientists say about this? Last January, less than two months before the Rosenbergs' trial began, Dr. J. Robert Oppenheimer, the foremost United States scientific authority on atomic weapons, made a speech in which he was quoted by the *New York Times* as having "declared that there were no 'unpublished' secrets concerning atomic weapons and no 'secret laws of nature' available to only a few." Authoritative scientific publications also have repeated this same point of view. An editorial in the September 1949 issue of *Atomics*, a monthly periodical dedicated to the presentation of scientific facts about all phases of atomic energy, offers one typical statement of the many hundreds that could be quoted. Entitled "The Russians Have It," the *Atomics* editorial was prompted by the first announcement of an atomic explosion in the Soviet Union. Said the editorial:

"Naturally, this news is of great interest but it should not be startling since it is only what every reputable scientist, knowing the principles of nuclear physics, has been predicting ever since we dropped the atomic bomb on Japan four years ago. *Since the discovery of uranium fission in 1938 there has been no basic secret regarding an atomic bomb.* True, it was not until July 16, 1945, when the first experimental atomic bomb explosion took place at Alamogordo, that American scientists actually know that an atomic bomb would work. *Only during the 21 days between that date and August 6, 1945, when the atomic bomb was dropped on Hiroshima, did we possess the secret of the atomic bomb. This secret was simply that we knew the bomb would work.* Scientists of other nations did not know it." (Italics mine—W.R.)

No Basis for the Sentence

Yet, the government sought, and the judge imposed the death sentence on the Rosenbergs for reasons that not only have no basis whatever in scientific fact, but also that had no relationship to evidence produced in the courtroom.

In his summation, Saypol declared: "We know that these conspirators stole the most important scientific secrets ever known to mankind from this country and delivered them to the Soviet Union . . . which today seeks to wipe us off the face of the earth. It would use the produce of these defendants, the information received through them, from these traitors, to destroy Americans and the people of the United Nations."

Judge Irving Kaufman made pronouncements beyond the evidence that were just as unprecedented as the prosecutor's, though even more wildly extravagant. In pronouncing the death sentence, the judge said to Ethel and Julius Rosenberg: "I consider your crime worse than murder." He said it was impossible to extend them leniency because "I believe your conduct in putting into the hands of the Russians the A-bomb years before our best scientists predicted Russia would perfect the bomb has already caused, in my opinion, the Communist aggression in Korea, with the resultant casualties exceeding 50,000 and

who knows but that millions more of innocent people may pay the price of your treason. Indeed, by your betrayal you undoubtedly have altered the course of history to the disadvantage of our country."

These pronouncements sound like a summing up of the hysteria and misinformation on which the Truman administration has relied for the past five years. But it can hardly be argued—even if the Rosenbergs were presumed to be guilty of every one of the wild charges made by their accusers—that giving away a "secret" *that never existed* constitutes "the most serious crime" a citizen of this country can commit. Just as the vulnerable and impeachable oral testimony fails to support any such contention, so too do the statements by judge and prosecutor about the bomb, contradicted at every turn by known historical and scientific fact, fall flat.

"Communism" in the Case

We must look elsewhere to find this "most serious crime" of which the defendants' guilt, as Saypol assured the jury, would be proved "beyond any doubt." The place to look is the very cornerstone of the government's case, upon which its entire gaudy and intricate edifice is based: the theory, as expressed by Saypol when he summed up the government's case, that: "Communism has a very definite place in this case because it is the communist ideology which teaches worship and devotion to the Soviet Union over our own government. . . . It is this adherence and devotion which makes clear their [the defendants'] intent and motivation in carrying out this conspiracy to commit espionage."

Although the defendants were ostensibly on trial for having committed espionage, the first question, apart from those eliciting background information, put to the government's first witness, Max Elitcher, was this: "Do you recall a conversation some time in 1939 with Sobell [co-defendant Morton Sobell] regarding the Communist Party?" In the atom bomb spy trial "Communism" thereby became the initial subject introduced for the jury's consideration! The defense objected to this question, but Saypol told the court that he wanted "to prove association, to prove intent, to prove motive for the crime which will be proved." In allowing the witness to answer, Judge Kaufman explained to the jury: "I am admitting this testimony on the theory of motive, but the government will have to establish that there is some connection between Communism and committing the offense charged in the indictment."

"Expert" Proof?

And how did the government prove this "connection"? Elizabeth Bentley was produced as the "expert" witness on the workings of the Communist Party of the United States. She obligingly recited her now-familiar thesis that all Communists are spies for Moscow.

Judge Kaufman characterized Bentley's testimony as follows: "I assume that this is the causal connection that we have been talking about between membership in the party

and intending to give an advantage to a foreign government, to wit, the USSR, as charged in the indictment.”

Thus, this “connection” was established merely by Bentley’s say-so. And the “expert” who established it for the government testified that, as a member of a special “underground unit” of the Communist Party, she not only had never seen the party’s constitution, but also had no way of knowing what went on in regular party channels and branch meetings!

During Bentley’s testimony, Judge Kaufman interrupted to ask: “Now, with particular reference to the instructions concerning help or aid to Russia, did I understand your testimony that the Communist Party officials instructed the members of the party orally and in writing, in a general way, to do everything possible to aid Russia?”

“That’s correct, yes,” responded the witness. But, so vague is this notion of doing “everything possible,” that Bentley could have given the same answer, had she been asked the same question about officials of the Republican or Democratic parties, President Roosevelt, Prime Minister Churchill or General MacArthur, since the period under consideration was the anti-fascist war. Bentley also contended that it was “implicit” in Communist Party membership to carry out orders from Moscow, that expulsion followed failure to do so and that the Communist Party of the United States “only served the interests of Moscow. Whether it be propaganda or espionage or sabotage.”

“The purpose for which this testimony was taken,” the judge explained to the jury, “. . . is to show a link, as the government contends, exists between aiding Russia . . . and being members of the Communist Party.”

Although for Judge Kaufman this “link” was shown simply because Bentley said it existed, the government assumed by the introduction of this prejudicial and inflammatory testimony the burden of showing that the defendants on trial were members of the Communist Party; of producing some proofs that membership in the party in fact was synonymous with “aiding Russia”; and, further, of establishing that Ethel and Julius Rosenberg subscribed to such policies. All of this would have to be done if this premise were to be legally binding on the Rosenbergs. But none of it was even attempted.

What Was the Real “Crime”?

Actually, the government produced no witness nor any evidence to establish that Ethel or Julius Rosenberg were, or had ever been, members of the Communist Party. The defendants themselves refused to answer the myriad prosecution questions regarding their political affiliations, availing themselves of their privilege under the Fifth Amendment. Yet, like the government’s failure to produce any evidence indicating that there was any “secret” to the atom bomb that could be stolen, the prosecution pilloried the defendants, inflamed the jury against them and capitalized on just about every prejudicial and hysterical allegation that equates an acceptance of communism with being loyal only to the USSR and a traitor to one’s own country.

Consideration of all of these factors—the neck-saving witnesses, the theory of the “secret” of the atom bomb and the concept that all Communists are spies—must be juxtaposed with the context of the times in which the Rosenbergs’ trial took place. It must be remembered that Julius Rosenberg’s sensationally publicized arrest came within three weeks of the outbreak of the Korean war and that—in striking contrast to all the confessed conspirators—the Rosenbergs could be crucified as “Communists” because of Rosenberg’s dismissal from the Signal Corps in 1945 on charges that he was a Communist.

A “Reichstag Fire” Device

Almost 20 years ago, after the Reichstag fire, D. N. Pritt, K.C., famous British lawyer, wrote: “Far more important for the German government than that the guilty incendiary should expiate his crime was the securing of a legal pronouncement in favor of the alleged complicity in the fire of their most feared and hated political opponents, the Communist Party of Germany. . . . The terror, the persecution and attempted political and economic annihilation of the Jews, the working class movement, and the progressive thinkers of Germany, thus received some shadow of apparent legal justification.”

The Truman administration, which has already borrowed so much from the nazis, may be using this nation’s first atom bomb spy trial as an up-to-date version of what the Reichstag fire was designed to achieve for the Hitler government. If the courts uphold the conviction and sanction the execution of Ethel and Julius Rosenberg, this will help to establish an invalid and fantastic connection *in law* between committing espionage and being a radical. And, as Mr. Nelson Frank of the *World-Telegram* reminds us and as the record of the trial of Julius and Ethel Rosenberg so clearly reveals, “espionage” and “Communist” are fast becoming in present-day America interchangeable terms. Progressive America had better fight back.

And this is a fight that can be won. That the American people will respond once they learn the facts, has already been demonstrated by the unprecedented response of readers of the *National Guardian* to the announcement of the formation of a Committee to Secure Justice in the Rosenberg Case. Based solely on the *National Guardian* series of the case, hundreds of people from all walks of life, from 32 states and from Canada to Alaska have sent in money and pledges of help. And the campaign has just begun. Not only can the fight be won. Americans who value their freedom—no matter what their political views—cannot afford to lose this fight.

For Justice to the Rosenbergs

A campaign to correct the injustice to the Rosenbergs is being carried forward by the National Committee to Secure Justice in the Rosenberg Case, of which William Reuben is provisional chairman. The committee is appealing for funds. Send contributions to William Reuben, 17 Murray Street, New York 7, New York.