

The Second Frame-up of



Julius and Ethel Rosenberg

The Implosion Conspiracy, by Louis Nizer, Doubleday & Co., \$10.00.

Twenty years ago, on June 19, 1953, Ethel Rosenberg, 37, and Julius Rosenberg, 35—after three years of imprisonment—were put to death in the electric chair at Sing Sing, in Ossining, N.Y., by order of the United States Government. To the end they insisted on their innocence. They had been convicted of conspiracy to commit espionage but in the mass media they were known as “atom spies”—traitors who had given the secret of the bomb to the Russians.

It was a chilling Cold War episode, and its message was heard 'round the world. Sartre and other European intellectuals saw the decision to execute the couple—in the face of

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massive worldwide clemency appeals—as a sign that America was prepared to go all the way in pursuit of its interests. The final scene was played out with an open telephone line between the death house and Washington: at the Department of Justice, top officials gathered in J. Edgar Hoover's office to await word that the Rosenbergs had broken and confessed; and at the White House, President Dwight Eisenhower was on hand ready to halt the proceedings. The Rosenbergs, who had two young sons six and ten years old, had been notified that their lives would be spared if they talked—which meant admitting to a crime that they had steadfastly denied and offering the names of other victims. They died rather than do that. The French Catholic writer Francois Mauriac, in a commentary titled “Torture by Hope,” referred scathingly to the “simple telephone wire which the day before the Sabbath linked the White House and Sing Sing and which will link them forever.”

by Walter Schneir

In the fall of 1949 President Truman had announced to the American people that an atomic explosion had occurred in the USSR. The American atomic bomb monopoly was ended. Truman commented that the development "was to be expected," adding: "Nearly four years ago I pointed out that 'scientific opinion appears to be practically unanimous that the essential theoretical knowledge upon which the discover is based is already widely known. There is also substantial agreement that foreign research can come abreast of our present theoretical knowledge in time.'" One of those who concurred with this calm assessment was General Eisenhower, then president of Columbia University, who observed that "the news we have been given by the President merely confirms scientific predictions."

But other voices were heard crying that America's atomic "secrets" had been stolen. One of the most strident was that of Rep. Richard M. Nixon of the House Un-American Activities Committee who already had been catapulted to national fame by the Hiss case. He attacked Truman for failing to act against Red spies and charged that an espionage ring "was responsible for turning over information on the atom bomb to agents of the Russian government."

In early February 1950, Americans learned from front-page headlines of the arrest of Klaus Fuchs in England as a Soviet spy. A physicist who had done wartime work in the U.S. on the atomic bomb project at Los Alamos, N.M.,

Morton Sobell led to arraignment, August 24, 1950



Fuchs was a peculiar and perhaps psychotic individual and the case against him depended on his own confession. Only part of this confession has ever been released and to this day we have no way of knowing whether Fuchs' rambling statement was true and whether it contained specific information implicating any American who may have dealt with the British scientist while he was at Los Alamos. In short, the Fuchs case was a perfect open-ended situation to which almost any story might be appended.

During the spring and summer of 1950, a series of nine federal arrests occurred in the United States which, from Department of Justice press releases, the public was led to understand were somehow linked with a Soviet atomic spy ring, communism, and the confession of Klaus Fuchs. Four of the nine later were shown to have no connection whatsoever with any atomic espionage ring. The remaining five became the principal personae of the great atom bomb robbery trial of Cold War America.

Harry Gold, a 39-year-old Philadelphia chemist with a Walter Mitty personality, was arrested on May 23, 1950. In a triumphant joint announcement, Hoover and the attorney general hailed the capture of the pudgy, dreamy-eyed bachelor as the wartime accomplice of Fuchs. In June came the arrest of an ex-GI, David Greenglass, a 28-year-old New York City machinist, who had been assigned to Los Alamos during the war. Greenglass, described in the press as a former member of the Young Communist League, was said to have given data on the atomic bomb to Harry Gold. On July 17 a new conspirator was jailed: Greenglass's brother-in-law, Julius Rosenberg, an electrical engineer who had been fired from a government job for alleged CP membership. A month later his wife, Ethel Greenglass Rosenberg, also was arrested and soon afterwards came the arrest of Morton Sobell, a 33-year-old engineer and classmate of Julius' at City College of New York. In the midst of these arrests, the Korean War began.

When the Rosenberg-Sobell trial opened in March 1951, at the federal courthouse at Foley Square in New York City, there were no defense committees and little or no coverage in the Left press. Unlike the Berrigans, Angela Davis, the Chicago Conspiracy, the Panthers and other radical defendants of the '60s and early '70s, the Rosenbergs and Sobell were isolated. After relatively short proceedings (14 trial days) they were found guilty; Sobell (who was not accused of stealing atomic secrets) received 30 years and the Rosenbergs death. The public had only the slightest idea of the government's evidence but from the tone of the newspaper accounts the prosecution's case must have seemed ironclad. As to the seriousness of the matter, Americans of the '50s could entertain no doubts. In what now seems one of the most incredible sentencing speeches in the nation's history, Judge Irving R. Kaufman told Ethel and Julius Rosenberg: "... 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.... We have evidence of your

treachery all around us every day—for the civilian defense activities throughout the nation are aimed at preparing us for an atom bomb attack. . . .”

This hysterical outpouring by Kaufman is, of course, palpable drivel (It did his career no harm, however: he is presently a judge of the Court of Appeals and several months ago was said to be in line for the post of Watergate prosecutor). But leaving aside Kaufman’s fantasies, were the Rosenbergs and Sobell guilty of espionage? How much evidence was there against them?

[THE GOVERNMENT INVENTS A CASE]

Not until many months after the death sentence was a defense committee formed, but eventually this committee printed up and sold thousands of copies of the trial record. What the record revealed to people all over the world is that the government’s case depended largely on the testimony of the Greenglasses and Gold, witnesses whose credibility—in terms of either self-interest or psychological makeup—was highly suspect. As for documentary evidence, there were dozens of prosecution exhibits but not one of them pointed directly and unequivocally to espionage. The exhibits included none of the well-known paraphernalia of spies: short-wave radios, miniature cameras, receptacles for drops, forged or real passports, microfilming equipment, code books, hidden caches of funds, false identity cards. Some of the government exhibits were blatantly political, such as a nominating petition signed by Ethel Rosenberg on behalf of a Communist Party candidate for New York City Councilman and a coin collection container with the printed legend “Save a Spanish Republican Child” that a vigilant FBI agent had found in the Rosenberg apartment. Nor did the government claim that any of its papers had been stolen or even copied by the defendants. It was the contention of the prosecution that David Greenglass, in the course of his work as a machinist at the atomic installation, had memorized information which he later passed to Gold and Julius in the form of sketches and descriptive material.

For anyone who wants to ask hard questions about the Rosenberg-Sobell trial, there is one central episode which cannot be ignored, for it constitutes the very heart of the government’s case—the so-called Jello-box meeting. During a visit to the Rosenberg apartment in New York City while David was on furlough, the Greenglasses were said to have been given one half of a Jello box top from Julius, who retained the other half. Later, on June 3, 1945, Gold allegedly visited the Greenglasses at their Albuquerque apartment, produced the matching part of the Jello box (which Harry said he had received from his espionage superior, Yakovlev), uttered a password with the name “Julius,” received atom bomb information from David, and paid \$500 in return. This key incident was buttressed by documentary evidence: an Albuquerque Hilton card in the name of Harry Gold, dated June 3, 1945, and a record of a \$400 bank deposit made the following day by Ruth Greenglass.

In 1955 two books appeared that attacked the verdict: *The Atom Spy Hoax* (Action Books) by William A. Reuben and *The Judgment of Julius and Ethel Rosenberg* (Cameron & Kahn) by John Wexley. Both authors disbelieved the



David Greenglass arrives in court for sentencing, April 5, 1951

prosecution story of the Jello-box meeting. Reuben speculated that Gold’s stay at the Hotel Hilton on June 3 had nothing to do with the Greenglasses. Wexley, whose suspicions were aroused by the fact that the registration card was introduced as a photostat, concluded on the basis of some research and astute deduction that the card was a probable forgery.

During the five years that Miriam Schneir and I were researching and writing our study of the Rosenberg-Sobell case, *Invitation to an Inquest* (Doubleday, 1965; Penguin paperback, 1973), we spent considerable time investigating all aspects of the Jello-box meeting. We were able to obtain a copy of the June 3 card introduced at the trial and, for reasons presented in an entire chapter, established that the prosecution exhibit was indeed a forgery. We also discovered and secured recordings of pre-trial conversations between Gold and his attorneys. These recordings contained an intermediate version of the Albuquerque meeting—recounted after over 100 hours of FBI interrogation—in which there was no mention of Julius, a Jello box, or a stay at the Hilton. These and other findings were used by Morton Sobell in 1966 to try to obtain a hearing at which witnesses—including Gold, the Greenglasses, and FBI agents—could be subpoenaed. The motion was denied, as has been every other request for an evidentiary hearing in the case. But in the course of this matter, attorneys for Sobell wrote to FBI Director Hoover requesting the original of the Hilton registration card and were informed that it had been destroyed.

[NIZER FOR THE PROSECUTION]

In February 1972 the *New York Times* reported that the well-known attorney Louis Nizer had written a screen play on the case for Otto Preminger and now was expanding his account for a book to be published by Doubleday. Nizer, a millionaire lawyer, is the author of a number of bestsellers about his courtroom experiences and also a defense of the Warren Commission report. He has frequently stated publicly that his biases against Communists are so strong that he could not accept one as a

client. In October 1972 a two-page ad appeared in *Publishers Weekly* with a headline stating: "The master of courtroom suspense delivers the final verdict." The text asserted that the forthcoming book would answer "once and for all—every question about the spy story of the century."

The ad promised: "The initial advertising budget will include the most extensive television campaign ever mounted for a work of general non-fiction—a campaign in which Louis Nizer will participate. Otto Preminger will turn the book into a feature film. Major reviews and major sales are assured." The initial ad budget was listed as \$110,000.

When the Nizer book, *The Implosion Conspiracy*, appeared in February 1973 it clearly did not fulfill the promise of the Doubleday ad that its author would deliver "the final verdict" or answer "every question" on the case. In fact, the book could have been written immediately after the executions for it takes no account of any of the newly discovered evidence nor does it offer any original information. Nizer even claims that the question of guilt or innocence "is a wrong question" (though it is clear enough which side he is on) and that instead we should concern ourselves with whether or not the jury had sufficient evidence to convict. Yet with all this, Nizer's book is worth close scrutiny, for it represents the first large-scale effort by the mass media to depict a piece of the domestic history of the '50s.

My own reaction to *The Implosion Conspiracy* changed in the course of reading it. At first I appraised the book as a sloppy, simple-minded exercise in courtroom schmaltz ("The Rosenberg trial is not only the most extraordinary spy story of the century, it is a love story."). There are no footnotes, sources, or index. Moreover, the book is distinguished by a truly impressive number of errors. Even the dust jacket contains misspellings of the names of major figures in the case. On page 80 we have Julius telling Ruth Greenglass to take her "child" with her to Albuquerque and on page 122 the same scene is described with a reference to "children." But the Greenglasses had no offspring at the time. On page 149 we are told that Gold came to the U.S. at the age of 14; actually he was three. On the same page we learn that the FBI "swooped down" on Gold at the Philadelphia Heart Hospital; however on page 161 we are informed that "Gold was arrested by the FBI while he was in his office at Brothman Associates. Brothman was later convicted for espionage." Working backwards from this melange of mistakes, Brothman never was convicted or even indicted for espionage. Gold was not arrested in New York at the office of Brothman Associates—he hadn't been there for years—nor was he arrested at the Philadelphia Heart Hospital. Instead, he was questioned for about a week at his home and at the FBI's offices and then, a model of supine cooperation, entered "voluntary custody" in a Philadelphia hotel where he was staying when Hoover announced his arrest as Fuchs' courier. During this entire period he was not represented by an attorney (though Nizer does not mention this), but that fact didn't make any difference since Harry was just wild about confessing.

On page 150 we read that "Gold dealt directly with Anatoli Yakovlev the chief of the spy network" who "was sheltered by an official position with the Russian delegation

to the United Nations." Wrong again. Yakovlev was identified at the trial as Soviet vice-consul in New York City. Again on page 150: "When the spy ring was cracked, Yakovlev was indicted. . . . but the Russian Embassy had no difficulty in speeding him out of the country." Actually Yakovlev had left the country over three years previously, as Nizer himself indicates on page 161 but here he has Yakovlev—previously "sheltered" by his non-existent UN post—now "protected by his diplomatic post in the Russian Embassy." As for the Russians "speeding him out of the country," here are the facts: documents introduced at the trial (exhibit 26) showed that Yakovlev, far from departing in haste, booked passage for himself and his family with the U.S. Lines in October 1946 for a November 14 sailing to Europe and, when a dock strike intervened, did not sail until December 27.

[ERRORS OR LIES?]

Yet for someone who is familiar with the Rosenberg-Sobell trial the realization gradually dawns that this book is not merely a hodgepodge of errors but, far more pernicious, a deliberate falsification of facts and history—much like the case itself.

In his introduction, Nizer assures the reader of his complete impartiality ("... I have presented all the evidence and nuances on both sides fairly and fully.") and declares that in writing about a trial there "is no place for fiction or even imaginative reconstruction. That is the path to a counterfeit presentation. Authenticity is the key." But nowhere in the book does Nizer reveal that he makes copious use of both "fiction" and "imaginative reconstruction." Sometimes this created material is presented in Q. and A. format, as on pp. 59, 76–78, 79–81, 157–158, 161, etc.; sometimes, as on pp. 97–101, it appears in the text as narrative. Using this method, Nizer freely edits and condenses trial testimony, without indicating deletions, and so makes the stories of prosecution witnesses appear far more lucid and coherent than they actually were.

To demonstrate that the Rosenbergs received a fair shake from the judicial system, Nizer boasts that "no criminal case in American history enjoyed so many applications to the courts, twenty-three; was reviewed by so many judges, 112. . . ." That statement has been widely quoted in the press, but it can be refuted out of hand. The Caryl Chessman case, for one, was in the courts far longer and was the subject of more than twice as many appeals. The figure of 112 judges, count them 112, seems impressive unless you happen to notice an appendix hidden in the back of the book (there is no table of contents) that explains how this figure was arrived at. When the Supreme Court denied review, Nizer counts this as nine judges. When the defense asked the court to reconsider its denial and the court refused, Nizer counts this as nine more. Of it 112 judges, 87 are the very same Supreme Court judges of whom Justice Hugo Black said on the day of the executions: "It is not amiss to point out that this court has never reviewed this record and has never affirmed the fairness of the trial below."

Among the illustrations in *Invitation to an Inquest* are
(Continued on page 48)

Reviews

Deja Vu:

WHICH STATE? WHICH SIEGE?

by Andrew Kopkind

Watching the recent films of Costa-Gavras is a lot like tuning in on the 6:30 news. Is it in Greece (*Z*), Uruguay (*State of Siege*) or America (*The CBS Evening News*) that a center-conservative government secretly uses its own police agencies and sanctions right-wing thugs to operate the machinery of surveillance and terror against "subversives?" Scenes from James McCord's Watergate testimony, for instance, could be intercut with shots of the Tupamaros' interrogation of the American AID official in *State of Siege* with hardly a break in continuity. Costa-Gavras and his screenwriters (Jorge Semprun in *Z*, Franco Solinas in *Siege*) understood the dynamics of republican repression ahead of the Watergate revelations, but it amounts to much the same thing.

The embarrassing accuracy of Costa-Gavras' descriptions of police terror and government duplicity in *State of Siege* was grasped by culture bureaucrats in Washington, who prohibited its showing at the opening of the Kennedy Center's film theater (compare: the list of banned culture items flashed at the end of *Z*). But since terror is never total and the Index is selectively enforced, the movie is currently in the midst of a well-publicized commercial run. Perhaps the prospective censors put their faith in the critics' theories of art to undermine the movie's real-life message. And indeed a critical debate did develop around the nonsense question: "but is it art?", complete with talmudic arguments about the manipulation of chronological sequences for the maximization of suspense—as if Costa-Gavras had to be Hitchcock, or Solinas (who wrote *Burn* and *Battle of*

Algiers) was supposed to be Ross MacDonald. *State of Siege* is not a technical exercise in film-making, but a penetrating portrayal of history; the fact that it is the product of the vision of two masterful film-makers only enhances its power.

Seen on the surface, the movie concerns the kidnapping and eventual execution of Dan A. Mitrione, an AID "traffic expert" assigned to train and direct the Uruguayan police in intelligence, torture and terror operations against the Left. Mitrione, a rather unappealing and banal police bureaucrat (too elegantly played by Yves Montand in the film), ended up in Montevideo after a career of dirty tricks in Latin America. He patterned his Uruguayan torture procedures and the "Escadron de la Mort" (the "death squad," which assassinates radicals) on models he had previously developed in Brazil and Guatemala. The Tupamaros, an urban guerrilla vanguard group in Uruguay, chose to kidnap Mitrione as a way of forcing a parliamentary crisis and dramatizing the sordid underside of the "democratic" government and its collusion with American imperial strategy.

"We hadn't wanted to make a suspense film," Franco Solinas said in an interview. "We tried to put our question to the public, not on the classic level—is he going to die?—but rather, is he or isn't he responsible?"

And his culpability was also not the classic sort—as if he had killed or stolen—but much broader, a responsibility of a political order. Our point of view is not 'romantic.' We do not make a moralistic speech. We do not try to find out whether Mitrione was 'good or bad.' Mitrione interested us because he represents a system that is bad for the majority of people."

On quite another plane, *State of Siege* is about the political stage between a libertarian republic and a repressive dictatorship. Uruguay in the late '60s under the Pacheco Areco government was not a totalitarian regime like, say, the military junta of Brazil. There was an authentic and articulate (if frightened) parliamentary opposition in Montevideo, an opposition press, and permitted forms of oppositional social movements (the Tupamaros, however, were outlawed and considered fair game for annihilation: a condition perhaps a half-step beyond that of the Black Panthers four years ago or the Black Liberation Army today in the United States).

Costa-Gavras is fascinated by that "transitional" political stage. He used it before in *Z*, which was set in the Greece of the parliamentary Karamanlis government, before the colonels' *coup d'état*. In both pictures, an administration of senior bureaucrats, wealthy industrialists and arrogant generals use terror tactics on the sly,



Z—Salonica, Greece

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