

Treason Convictions Reversed; Six Chicagoans Get New Trial

Unanimous Opinion by Appeals Court
Stresses Refusal to Separate Cases

By the Associated Press *star* *43*
CHICAGO, June 29. — The United States Circuit Court of Appeals reversed today the conviction of six Chicagoans on charges of treason and remanded their cases to the District Court for a second trial.

Defendants were Hans Haupt, Otto Wergin and Walter Froehling, who had been sentenced to death in the electric chair, and their wives, Mrs. Erna Haupt, Mrs. Kate Wergin and Mrs. Lucille Froehling, who had each been sentenced to 25 years' imprisonment.

They were convicted last November 14, accused of harboring and aiding Herbert Haupt, son of the Haupts and one of the eight Nazi saboteurs brought to the United States in German submarines, last spring.

The opinion reversing their conviction was unanimous.

"As we read it the jury was told that the act of one defendant, in furtherance of a common design, was the act of all and that all were chargeable therewith," the appellate court's opinion said in part.

"We think the conclusion inescapable that the jury would understand that one or more defendants could be convicted for the act of another.

"The Government also argues that this instruction was proper on the theory that the defendants were acting in concert for the accomplishment of a common purpose or a treasonable plot. No such situation, however, was alleged in the indictment, but even if it had been we are of the opinion that a defendant charged with treason cannot under a conspiracy theory be convicted

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of an overt act committed by some other person.

"We need go no farther in discussing the numerous other criticisms directed at the court's charge and its refusal to give instructions proposed by the defendants. The errors which we have discussed are not aided by considering the charges as a whole. In our opinion, they are of a character which require a reversal."

The Appeals Court found some of the instructions were erroneous and that the crux of the attack on the alleged unfairness of the trial "revolves in the main around the court's denial of the defendants' motion" for separate trials.

The defendants at an early hour had not been informed of the reversal. They have been held in the Cook County Jail.

United States Attorney J. Albert Woll announced the Government would seek an immediate rehearing. He has 10 days in which to prepare arguments on such a motion.

Young Haupt, whom the defendants were accused of helping, was captured with his accomplices before they could carry out their plans to sabotage American industry. Haupt and five fellow-conspirators were executed in Washington last August 8.