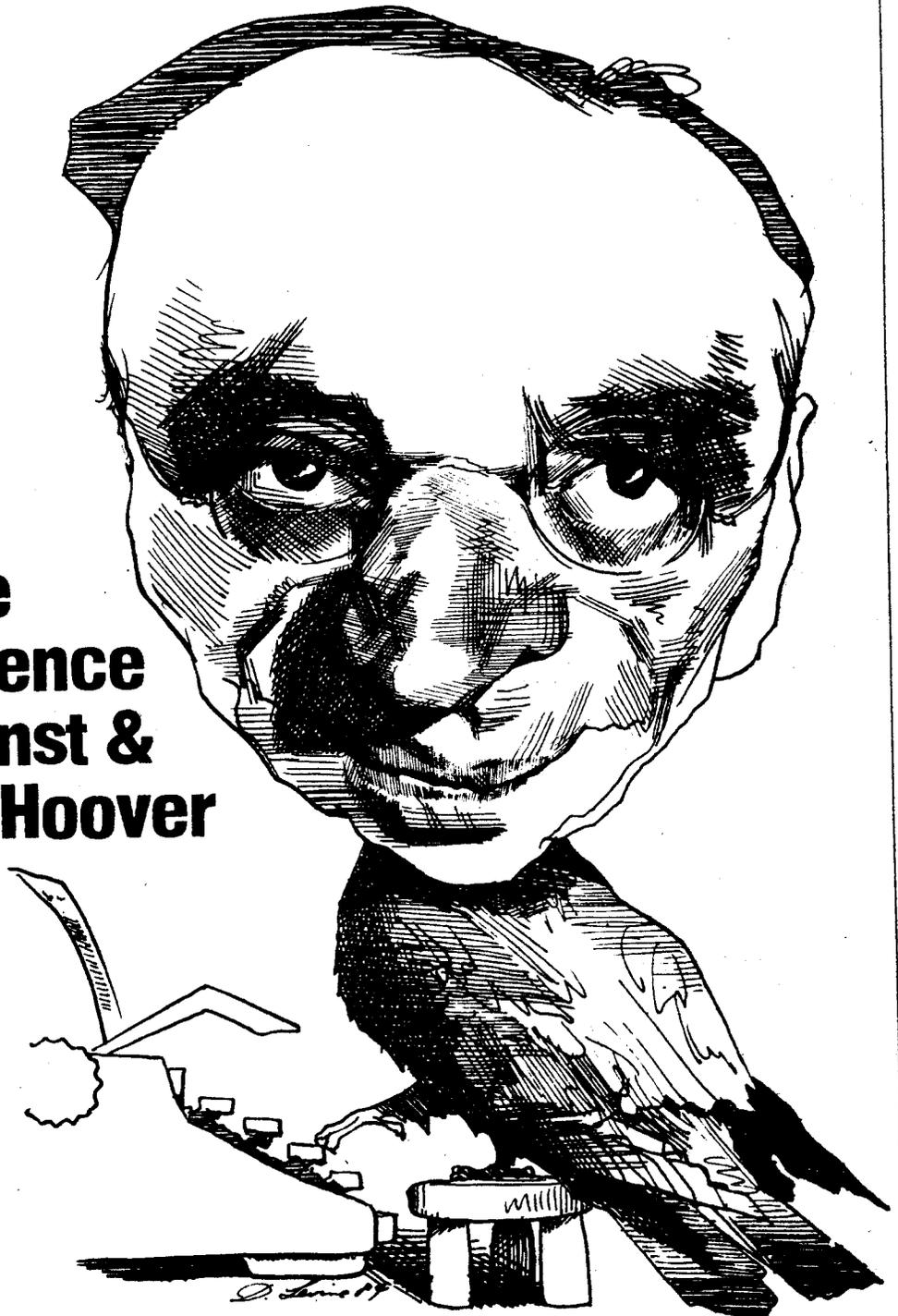


# The Nation.

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## **The Strange Correspondence Of Morris Ernst & John Edgar Hoover 1939-1964**

**Harrison E. Salisbury**



## ARTICLES.

# The Strange Correspondence of Morris Ernst and John Edgar Hoover 1939-1964

HARRISON E. SALISBURY

Or was it so strange a correspondence? After reading and rereading the more than 300 letters exchanged over twenty-five years by Morris Ernst, the great civil liberties lawyer, and J. Edgar Hoover, a most opposite number, I find myself at a loss to select the precise adjective to describe that cascade of epistles.

There are many words that might be applied: bizarre (but that is surely too strong); incongruous (yet often the two men were laboring in the same vineyard); devoted (the *appearance* of that was there, but it was less than skin-deep); collegial (sometimes, but often not). If at moments Ernst wrote as a petitioner and acolyte, there were also times when he appeared as a magisterial Cassandra, forecasting the fall of the temple—the Federal Bureau of Investigation—or even as indulgent headmaster, catching his favorite pupil, Edgar, with a crib up his sleeve.

But the correspondence characterizes itself, and this is true from the first tentative letter (at least the first that has been retrieved under the Freedom of Information Act), written by Hoover to Ernst November 8, 1939. Hoover enclosed, for Ernst's information, a copy of a letter written to him by Lucille B. Milner, secretary of the American Civil Liberties Union, of which Ernst was then general counsel, and a copy of his reply. The exchange dealt with wire-tapping, "a matter which we have discussed on recent occasions."

The first Ernst letter we have is dated April 14, 1941. In it Ernst enclosed a copy of a "hate-mail" letter addressed to newscaster Raymond Gram Swing, "which may be worth putting in your files." That the Ernst-Hoover relationship was still in the greening stage can be adduced by the fact that Ernst addressed his letter, "Dear John." It would not be until November 21, 1941, that "Dear John" became "Dear Edgar."

The last letter of Ernst's that has been retrieved is dated October 8, 1964, and opens, "My dear Edgar." "For your eyes alone," writes Ernst, "I am sending a copy of a letter addressed by Mr. Pemberton, Director of the ACLU, to Osmond K. Fraenkel [of the A.C.L.U. Board of Directors]." The letter to which he refers deals with civil liberties issues

raised by the Warren commission's report on President Kennedy's assassination.

Those letters, of no enduring consequence, are typical of the Ernst-Hoover exchange and indicate a basic feature of it: the secret, unauthorized sharing of letters from third parties.

The existence of an Ernst-Hoover correspondence first came to light in 1977, a year after Ernst's death, in the course of an inquiry by the American Civil Liberties Union into hidden connections between the A.C.L.U. and the F.B.I. The A.C.L.U. retrieved some 45,000 pages of Bureau files under a freedom of information suit, but those included only a handful of Ernst's letters, which gave no indication of the extent of his epistolary relationship with Hoover. Only now do we know about it, thanks to the distinguished scholarly specialist in F.B.I. affairs Prof. Athan Theoharis of Marquette University, who obtained more than 200 items under the F.O.I.A. Included in that *oeuvre* are Ernst-Hoover letters, Hoover-Ernst letters, letters to Ernst from Hoover's amanuensis, Louis B. Nichols, and F.B.I. internal memorandums. Additional material is contained in the correspondence that Ernst deposited at the University of Texas Humanities Center in Austin. That cache consists of one hundred or so documents, many of them duplicates. This study is based also on the Ernst materials in F.B.I. files on the Galindez case (of which, more later), by a handful of other random Ernst materials and by interviews with persons close to Ernst.

The Ernst-Hoover connection involved far more than the "clubby relationship" described in the A.C.L.U.'s official report, which exonerated Ernst of any "overt improprieties." In addition to the hundreds of letters, there were telephone calls and personal visits, of which only a fragmentary record remains. There is, incidentally, no reason to believe that the F.B.I. files have yielded all the Ernst materials they contain. The bulk of the letters should have been placed in Hoover's Personal and Confidential file which was supposedly destroyed by his personal secretary after his death, in 1972. Most of the letters we possess have come from the Official and Confidential file of Assistant Director Louis B. Nichols, who was actually Ernst's primary correspondent. According to F.B.I. regulations these should have been destroyed every six months—but they were not, for reasons that are not clear. They were part of the Bureau's Do Not File files and were not indexed or subject to normal F.B.I. retrieval procedures. Others were part of the Behind the Do Not File

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*Harrison E. Salisbury was a correspondent and editor of The New York Times for many years. He is now at work on a book titled The Long March: The Untold Story, to be published next autumn by Harper & Row.*

files. Memorandums relating to Ernst and the Rosenberg case were filed not under "Ernst," or "Hoover" or "Nichols" but under "Rosenberg." There may be scores of Ernst items still hidden away under other subject headings. In the A.C.L.U. inquiry, only materials filed under "A.C.L.U." were recovered. Thus, A.C.L.U. investigators got just a whiff of the strange correspondence.

The relationship between Hoover and Ernst was not a casual, hit-or-miss thing. It possessed its own inner dynamic and, probably inevitably, declined to oblivion. It was always conditioned by the contrasting personalities of the men and by their differing aims and objectives.

I do not see the correspondence as evidence of a pervasive influence of Hoover on Ernst, or vice versa. Nor is it possible to document the relationship as having had a major effect on the history of civil liberties in the United States. The significance of the correspondence lies in what it reveals about the state of civil liberties and its flawed defenders during a critical time for the Bill of Rights—the McCarthy period. The Ernst-Hoover letters hit their peak between 1948 and 1952, the worst McCarthy years, but they seldom touched on what we would consider the basic issues of that period.

After reading the letters one is overcome with awe at the extraordinary recuperative powers of American society which enabled it to emerge from the sickness of McCarthyism despite the efforts of a man like Hoover, who mouthed clichés of freedom while slipping documents into the hands of its enemies, and the equivocal role of Ernst, a champion of civil liberties who had, in a rather complicated way, succumbed to the conviction that Hoover with his F.B.I. stood as a bastion against the threat of Soviet communism.

We know enough about Hoover's background to require no extensive reprise, but who was Morris Ernst in 1939, when the strange correspondence began? He was a positive fighter for freedom of expression and would remain so, by his own lights, until his death, on May 21, 1976. Had he not been a giant in defense of the Bill of Rights the Hoover connection would not concern us.

In fact, Ernst was a pioneer in the American Civil Liberties Union. He served as its general counsel from 1929 to 1955, was a member of the A.C.L.U. board and argued many cases that led to landmark decisions. Perhaps his most famous victory came with the reversal of the ban on bringing James Joyce's *Ulysses* into this country, which loosed the shackles of "obscenity" and "pornography" that were fettering American letters. Ernst was counsel for the Authors League of America and the Dramatists Guild, and special counsel for the American Newspaper Guild. He led the fight to free sex from puritanical corseting and did much to clear the way for birth control. He won the fight against suppression of Marie Stopes's book *Married Love*. He was a liberal Democrat, a friend and supporter of New York City Mayor Fiorello La Guardia and a backer of Franklin D. Roosevelt from the days when F.D.R. was Governor of New York. When Roosevelt entered the White House, Ernst played an important behind-the-scenes role, handling many delicate matters for the President.

It is against the achievements of this extraordinarily talented and often quixotic man, warmly devoted to his family and friends ("You didn't know Morris until you came to him in trouble," a Harvard law professor once said), that the Ernst-Hoover relationship must be evaluated.

How did it come into being? It was the byproduct of a bit of shoddy New Deal politicking by F.D.R., but there was more to it. Ernst was a person of influence who understood and was fascinated by power and its uses. Roosevelt and Hoover were only two of many powerful men whom Ernst cultivated and who, in turn, cultivated him. To some extent, no doubt, Lord Acton's famous dictum applies here, but it was not just a mutual interest in power that drew Ernst and Hoover together; it was fear and hatred of communism. That was the bridge between the principled civil libertarian and the man long since exposed as a primitive racist, a wire-tapper of Presidents, a blackmailer of politicians and a sympathizer of Senator Joseph McCarthy.

**B**orn in Alabama into a German-Jewish immigrant family, Ernst was not religious. He was active in several Jewish causes, but his bent was ecumenical. He grew up in New York City, attended Horace Mann High School and obtained his Bachelor of Arts at Williams College. On graduation he went into business, following the family tradition, as a manufacturer of shirts and then as a furniture salesman. But his mind was restless and searching. He attended New York Law School at night and graduated in 1912. In 1915 he became a partner of Greenbaum, Wolff and Ernst, which would become a very distinguished firm. Herbert Wolff was the conventional partner, providing a link with corporations, banks and Wall Street. General Greenbaum brought in a number of "Our Crowd" clients, including *New York Times* publisher Arthur Hays Sulzberger and his wife, Iphigene Ochs Sulzberger. Ernst was the man-about-town of the trio, a frequenter of the Stork Club and "21," friend and often counsel of leading lights in the literary and publishing world. He kept his nose in politics, relished the latest gossip and was a confidant of every New York Mayor from Jimmy Walker on. Attractive to women (and attracted to them) he was, nevertheless, a family man, with a wife and three children. His house in Greenwich Village became a salon of sorts, and beginning in the 1930s he spent long summers at a compound in Nantucket, sailing, working at his carpentry (he was talented at that) and carrying on his practice by telephone and the briefest of trips to New York.

Ernst was a member of the Greenwich Village generation that came after the one of John Reed, Max Eastman, Eugene O'Neill, Mabel Dodge and *The Masses*. His was the Village of the late 1920s and the 1930s, bubbling with life, talent, nonsense and, as the Depression wore on, hard-core left-wing politics. No more the gaiety of Louise Bryant, now the tone was set by William Z. Foster and Earl Browder; it was a time when the American Communist Party was a real power, particularly in New York City. It attracted many of Ernst's friends and clients (the two were often the same).

Among Ernst's friends, none was warmer, closer, more treasured than Heywood Broun, the rumpled radical columnist of the *New York World* (as well as *The Nation*) and founder of the American Newspaper Guild. Ernst represented the guild before the Supreme Court in the *Watson* case, which extended the provisions of the Wagner Labor Relations Act to the newspaper industry. (Morris Watson, a senior reporter, had been fired by the Associated Press for union activities.)

In those days Ernst's gods were Justice Louis Brandeis and Franklin Roosevelt. Broun stood somewhat to the left of Ernst, but when the Communists tried to take over the guild they joined forces and repelled the challenge. Ernst also did battle with the party in the National Lawyers Guild, but that time he lost. Those struggles deeply colored his outlook. He came to believe that the Communists posed the greatest threat to American liberties. From that perspective J. Edgar Hoover looked like a knight on a white horse.\*

In 1940 the A.C.L.U., with Ernst in the vanguard, drove the veteran Communist Elizabeth Gurley Flynn off its board, declared war on fellow travelers and approved a resolution that put party members beyond the pale. They were deprived of A.C.L.U. support or sympathy because, in effect, they were part of a foreign conspiracy. The line was drawn exactly where Ernst wanted it drawn, and he would stand on it to the end of his days.

**PART I**

## The Oddest Couple, or A Truce Is Arranged

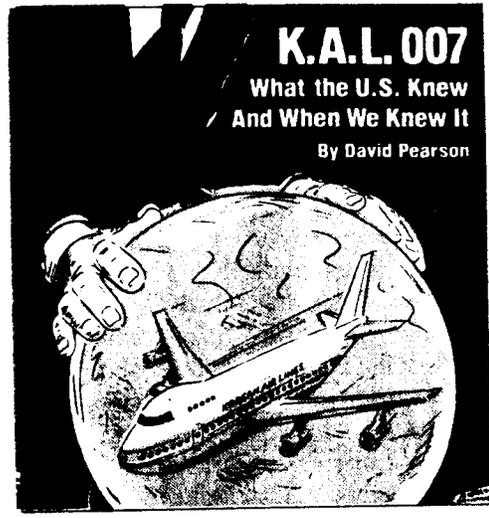
It would be hard to imagine two men who were less compatible in temperament, philosophy, mores, life style and interests than Morris Ernst and J. Edgar Hoover. Once in 1941, Ernst had the bright idea of enlisting Vice President Henry Wallace to persuade the *New York Daily News* to tone down its criticism of the F.B.I. He reminded Hoover that the two had done Wallace a favor. But Hoover didn't like the idea of asking Wallace, a noted liberal, for help. Another time Ernst proposed getting Hoover together with Dr. Alfred C. Kinsey, of whom Ernst was a great friend and backer. Kinsey, he told Hoover, planned to examine the sexual habits of Communists. Hoover was titillated but no meeting ever came off. Perhaps the F.B.I. chief was afraid the doctor might inquire about his sex life.

The first meeting between Ernst and Hoover occurred on the eve of World War II. The exact date cannot be precisely

\* When, on October 18, 1950, Hoover was knighted by the King of England, Ernst telegraphed: "Congratulations, dear Knight. I will be in Washington tomorrow, Thursday. If you or any of your boys want to see a lowly layman let me know." When, in 1952, Ernst was awarded the French Legion of Honor, Hoover wrote him an *Emily Post* note wishing "heartiest congratulations." The two notes epitomize the contrast between the men.

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established.\* By 1950 Ernst himself wasn't sure, and he raised the question in a letter to the Bureau. (He needed to know because he wanted to include it in an article he was writing called "Why I No Longer Fear the F.B.I.") The Bureau replied that the earliest reference to him in its files was a March 29, 1939, letter from Hoover to the Attorney General concerning legislation to permit wiretapping. Hoover suggested that such a bill be drafted by "some liberal lawyers [like] Ferdinand Pecora and Morris Ernst."†

Ernst and Hoover were thrown together in the course of F.D.R.'s maneuvering to get Texas Representative Martin Dies and his anti-Communist probe off his back before the 1940 elections. (Dies was claiming that the Administration was riddled with Communists.) Hoover, a relatively young bureaucrat very much on the make, did not share Roosevelt's liberalism, but he didn't like Dies playing on his turf and he didn't mind doing the President's dirty work. At the latter's request he was already wiretapping John L. Lewis and keeping an eye on people who wrote critical letters to the White House. So far as Dies was concerned Ernst was as bad as F.D.R. The Congressman had called the American Civil Liberties Union a "Communist front," and Ernst was preparing a First Amendment lawsuit against him. Dies, Hoover, Ernst and a couple others held some quiet meetings at which a live-and-let-live agreement was hammered out. The A.C.L.U. dropped its suit, Dies dropped his charges and a truce was made between F.D.R. and Dies.

In the files at the Roosevelt Library at Hyde Park is a letter dated June 1, 1941, in which Ernst reports to the President that he is working with Hoover on "countersubversion." That is probably a reference to Ernst's scheme, mentioned in another letter to the President, under which the In-

\* The F.B.I. carried out a routine check of Ernst in 1935 in connection with a Federal appointment. Nothing derogatory was turned up.

† In a November 8, 1941, letter to Ernst, Hoover refers to their "recent discussions" of wiretapping. This was the theme of much of their correspondence over the years. Hoover opposed legislation to establish the legality of wiretapping, probably feeling it would restrict his hand. He preferred his own freewheeling operations in which he got the information he wanted via "technical installations"—F.B.I. jargon for illicit taps. Ernst also opposed such legislation, except to inhibit wiretapping by local police agencies. He believed wiretapping was essential in national security (that is, espionage and Communist) cases and trusted Hoover and the Bureau not to infringe on individual liberties.

ternal Revenue Service would require isolationist and arch-conservative organizations like the Liberty League to register the names of their officers and directors and make public their expenditures and sources of funding. Ernst thought that would "force the underground anti-Americans into the open." F.D.R. liked the idea; the Treasury Department didn't, and nothing came of it. (After the war Ernst proposed the same idea to Hoover as an anti-Communist tool. Hoover was cool. He was already getting all the information he needed from the I.R.S.)

Out of those casual interchanges the Ernst-Hoover relationship flowered. There was much back scratching. During World War II, Ernst invited his New York and Washington friends to dinner parties at his Greenwich Village town house. He tried to coax Hoover to those affairs but never succeeded. (Another refuser was Arthur Hays Sulzberger.) Ernst didn't stop trying. On September 28, 1949, he extended an invitation to Hoover "and some of your top boys to see if I can help develop some new techniques." Nothing came of it. When Ernst repeated the invitation, Hoover scrawled on the letter: "No, I don't want to do this. I anticipate he would include such individuals as Frederic March et al."

Ernst never concealed his relationship with Hoover; indeed, he gloried in it and was the staunchest of cheerleaders. Between 1948 and 1952, he wrote numerous magazine articles, speeches and books praising the Bureau. As he told Hoover in January 1948: "Of course a lot of people think I am just a stooge for you which I take as a high compliment. There are few people I would rather publicly support."

"You are a grand guy," he wrote on November 29, 1948, "and I am in your army." And in November 1949 he wrote, "I am fast becoming known as the person to pick a fight with in relation to the F.B.I."

Ernst's puffery went to extraordinary lengths. On each of his articles—whether it was for *Reader's Digest*, *The American Scholar* or *Look*—and on his books on communism, he had an invisible collaborator, the F.B.I. There were personal conferences, revisions, suggestions, rewriting and even, occasionally, quiet intervention by Nichols with a magazine editor (notably Fulton Oursler of *Reader's Digest*) to ease Ernst's prose into print. The files contain scores of pages of F.B.I. memorandums and texts relating to his writings. Nor was it a one-way street. In 1949 Hoover sent Ernst a draft of the F.B.I.'s annual report, and Ernst made suggestions: "It might be pegged on the fact that the signer, J. Edgar Hoover, has been 25 years with the organization." Hoover turned down the self-plug.

**E**rnst always assumed that he was corresponding with J. Edgar Hoover personally, but, in reality, that was seldom the case. Most of the letters signed by Hoover were written by Nichols or another subordinate. We know that because the copies in the Bureau files retrieved under the F.O.I.A. bear the initials of the writer. Hoover nominally read the letters before they went out, but for long periods Nichols was, in effect, Hoover: "The next time you are in Washington, I wish you would get

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in touch with Nick on a matter I have already discussed with him." The signature was "Hoover," the initials in the corner, "LBN."

Despite the bureaucratic runaround, Ernst did occupy a privileged niche: he was on Hoover's "special correspondence" list. Persons of this rank received replies signed by Hoover, and Ernst held it until about 1958—the precise date cannot now be ascertained. He was formally demoted considerably later, by Hoover's closest associate, Clyde Tolson, after Ernst called Hoover a "cherished friend" at a closed Congressional committee hearing. "Any correspondence to him over the Director's signature may bring about repetition of his reference to the Director as a 'personal friend,'" Tolson noted in a 1964 memorandum.\* Ernst was placed on the "in absence of" list: all letters to him were to be signed by assistants "in the absence of the Director."

The filing procedures for Ernst's correspondence were equally byzantine, as a memo from Nichols's executive assistant, Frances Lurz, disclosed in 1958, after Nichols had resigned the F.B.I. to join Schenley Distillers:

See Mr. Nichols' letter to Mr. Ernst 1/22/54 advising Ernst "the further fact that we had an understanding a long time ago that your personal notes would be considered as personal

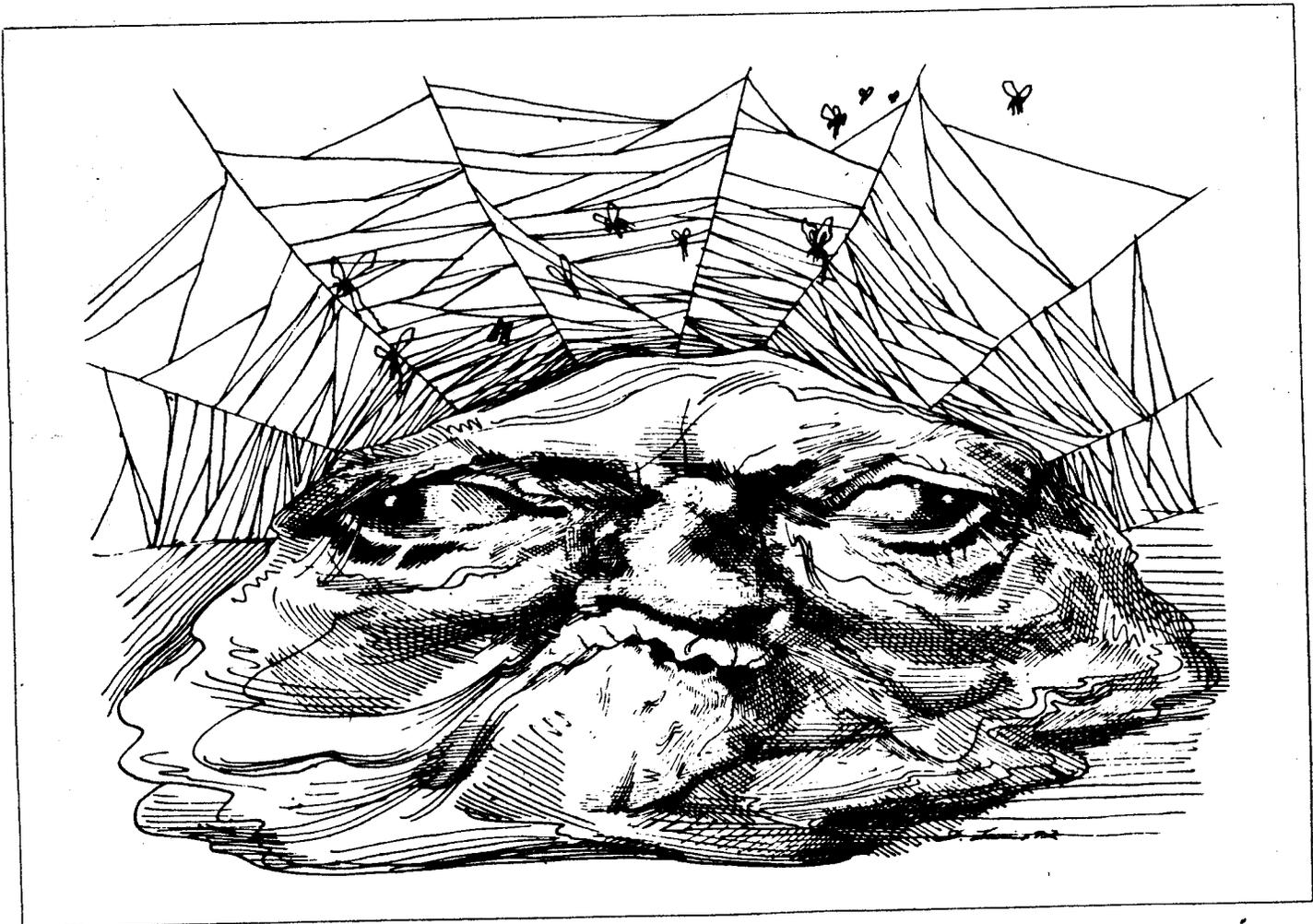
\* After Hoover consulted Ernst about a possible libel action against *Time*, Hoover worried that Ernst would refer to him as "my client."

and would not go into the file. Since that time the only communications which have gone into the file have been the few obviously official communications you have sent me."

Nichols, she explained, had placed a "stop order" with the Records Branch. All Ernst materials were reviewed and most of them sent to the Official and Confidential file in Nichols's office.

When it came to his dealings with the F.B.I., Ernst was either extremely naïve or extremely trusting. He sent Hoover and Nichols scores of confidential letters written to him by friends or associates. Always he specified that the enclosures were "for your eyes alone," or that "no public use is to be made of this." Always he asked for their swift return. They were, of course, returned, though not before Hoover or Nichols had a photocopy made. It is difficult to believe Ernst overlooked this likelihood.

In 1949 James Lawrence Fly, the former head of the Federal Communications Commission, raised a storm about F.B.I. wiretaps. Fly and Ernst (old friends) battled over this issue at A.C.L.U. meetings. Hoover became so alarmed at Fly's charges that Ernst relayed to him every letter he received from Fly and drafts of his personal replies, so that Hoover might make suggestions. Once Ernst hand-delivered to Nichols's secretary an original letter from Fly and his proposed response. A memo from Nichols to Hoover and Tolson said: "[Ernst] specifically asked the girl not to make a copy



of it. I have the copy he left with me and I will return it to him. If you should run into Ernst, I suggest that you tell him I showed you both the letter from Fly. I'll tell him the same story. A copy is attached." Affixed to the surreptitiously reproduced letter is an L.B.N. note: "The enclosure to Morris Ernst's letter should not be marked in any way since it must be returned." The copy is peppered with Hoover's scribbles: "Fly is very clever. He tried to appear he is yielding yet his so-called [*sic*] concession is so restricted it is the same old proposition."\*

## PART II

# The Importance of Being Ernst

Now let us turn to the actual content of the Ernst-F.B.I. correspondence. Ernst provided Hoover with considerable A.C.L.U. material—memos, reports, minutes of meetings, copies of letters to and from Roger Baldwin, the grand old man of the A.C.L.U., and other prominent civil libertarians. From the perspective of thirty or forty years most of it seems like small potatoes. Yet there is something unnerving about the spectacle of Ernst—Mr. Civil Liberties—sharing with Hoover this stream of intimate material. What would Baldwin, Arthur Garfield Hays, John D.J. Pemberton (the A.C.L.U.'s executive director) or Osmond K. Fraenkel have thought? What would Freda Kirchwey, editor of *The Nation*, have thought if she had known Ernst was sharing her correspondence with Hoover? Or Bruce Bliven of *The New Republic*? Or I.F. Stone, had he known Ernst was trying to silence his criticism of the F.B.I.?

Ernst also contributed letters from cranks who were critical of the Bureau or Hoover, or of himself or his friends. Hoover responded to these tips by providing information from the Bureau's files on these individuals. Ernst was indefatigable in his defense of the F.B.I. Again and again he asked: "Can I help? What can I do?" When he went to Europe in December 1949 he asked if there were any chores he could undertake "for you or your boys" in Paris or London. (It was always "your boys.") Concerned in June 1953 about published charges that the F.B.I. had, in Ernst's words, "been inefficient and slothful with respect to investigations," he asked, "Is there anything I can do for you? Would an article properly placed be of any value?" He suggested more aggressive propaganda. He thought Hoover too defensive. Over the years he lobbied in behalf of Samuel Goldwyn, who wanted to make a movie about the F.B.I. (Hoover was strong for such movies—he wanted one or two a year—but somehow the Goldwyn deal never came off.) On balance, it seems clear that Ernst's greatest value to the

Bureau was as a publicist, a kind of *Good Housekeeping* seal of approval.

No one worried more over the F.B.I. than Ernst; and his was a serious worry, not flummery. He worried about its ability to maintain what he called its integrity. He took a position that may seem curious today: the F.B.I. was a simple collector of raw data, just a vacuum cleaner, really—not an evaluator, not a prosecutor like the Gestapo or the Soviet secret police—and it was this that made it a defender of our liberties rather than a threat to them. So long as the Bureau merely turned over the raw files (evaluating the reliability of its sources but not the accuracy of the information they provided) there was no danger of a police state in America. That may seem a quibble or a technicality, but there it is. That is what Morris Ernst believed, and any effort by Congress or the press or whomever to make the F.B.I. publish or summarize its data sent him into orbit. Such efforts, he felt, threatened what he saw as the Bureau's impartial, nonpolitical role. He was profoundly disturbed when he heard reports in 1953 that the Bureau had provided two senators with a two-page memorandum summarizing raw files on Charles (Chip) Bohlen, the subject of a fierce attack by McCarthyites who opposed his confirmation as U.S. Ambassador to the Soviet Union. Hoover's soothing explanations did not quiet him. In a letter dated April 1, 1953, he told Hoover: "I wrote to Lou about the frightening aspect of the FBI making summaries of raw files. I must assume that if you do so, it is done with great reluctance. Let me know if I can help you on other levels."

As the year drew on Ernst became more alarmed. On November 19, he wrote, "I am really fearful that the FBI is in peril. . . . The first official breach in your theory of the sanctity of communications of the FBI appeared when the Bohlen file was summarized by the FBI for exhibit to two senators of good will and honor." On December 21:

Now I am fearful that your great life's work may go down the drain. . . . Regretfully I tell you that the American people believe that the Attorney General has bandied about your files. . . . It seems clear that he has not followed your consistent practice never to apply a derogatory term to any person who is the subject of an inquiry. . . . Let me know if I can apply my feeble efforts to aid in the traditions which you have established.

Hoover took Ernst's strictures with some seriousness, but he made it clear that he was not worried about the future of the F.B.I. As he well knew, a considerable amount of material had already been transfused from his files to McCarthy, the Eastland committee and others. He did, however, sermonize on a subject that still rankled him, the 1950 Judith Coplon case. Coplon had appealed her conviction for espionage, and U.S. Circuit Court Judge Learned Hand had reversed the lower court's verdict, criticizing the F.B.I.'s conduct and ordering it to turn over to the defense twenty-eight individual investigative reports. (After the case was thrown out and before it could be retried, Coplon jumped bail and fled the country.) The Coplon case, Hoover insisted, was what had *really* damaged the F.B.I.

Judge Hand's decision had come down while Ernst was in

\* Ernst once referred to Fly as "the leader of the non-Communist opposition." Hoover noted, "I query the 'non.'" (Nichols to Tolson, February 8, 1950)

Europe. Immediately on his return, November 1, 1950, he wrote Hoover that the decision "disturbs me *greatly*. Can I help?" He got a reply signed by Hoover but written by Nichols saying he didn't think anything could be done.

Ernst's offer to help the F.B.I. was almost Pavlovian. If Hoover was less disturbed than Ernst about the future of the F.B.I. it is probably because he did not share Ernst's philosophical concepts. Hoover didn't mind Ernst propagating his high-minded ideas, but to him the F.B.I. was a private fiefdom. The information secreted in the files was to be used to manipulate people for his own ends and to keep his sturdy bureaucratic bark on course. He knew he had to have a good working relationship with each attorney general, and sometimes a peek at a file, or a whisper about one, helped a lot. Ideologically, he was far more comfortable in McCarthy's camp than in Ernst's. Whether Ernst understood that is not clear. But certainly if he had any qualms about J. Edgar, he kept them to himself.

In 1954 the Ernst-Hoover letters become sparser. Hoover seems to have grown bored and irritated with his faithful correspondent. His megalomania had increased; he became resentful of Ernst's erudition and his attitude, which was sometimes fawning and sometimes patronizing.

Ernst was not always a tactful courtier. Possibly the sharpest rebuke he ever delivered to Hoover was cast in a curious form. On November 12, 1955, he sent Nichols the "draft" of a letter to Hoover with the suggestion, "you might wish to pass it on to the boss." Ernst wrote he had heard gossip that some Republicans wanted to run Hoover for President if Ike decided against a second term. "You know of my great respect for you as the top constable of the nation," Ernst said. "I hope you will not deem it unkind for me to say that I like you as head of the FBI but not as President or even as a candidate for that office."

Another time Ernst wrote Nichols: "Tell Edgar that I am worried about him for the first time. His letter to me about [James] Fly indicates a height of temperature inside of him which is not only unnecessary but dangerous since it bespeaks some degree of insecurity." Hoover replied, in a letter almost certainly written by Nichols, "I got a kick out of your observations to Nichols."

**A**n odd incident in 1951 seems to have contributed to cooling the Ernst-Hoover relationship. Only Nichols's memorandums, the comments of Hoover and Tolson and heavily blacked-out memos from Edward Scheidt, the F.B.I.'s New York City Special Agent in Charge, describe the affair. No correspondence by Ernst is available, nor is any likely to exist.

On June 4, 1951, Ernst telephoned Nichols to tell him that a client had boasted he could get any file he wanted out of the F.B.I. for \$250. Ernst said he would put up \$250 and test the gambit. Hoover and his aides offered to make good the \$250, as Nichols noted, financing it "on a blue slip basis." Without informing Ernst, they also instructed Scheidt to tap the client's phone, even though Ernst had given Nichols his name "in confidence." Ernst became jittery, fearing he had put his client in jeopardy. After a month of back-and-forth,

Ernst, according to Nichols, finally said he could not go through with the setup because "it would be a betrayal of a friend and he was not a Calomiris."\* There is no reason to doubt Nichols's description of Ernst. "I have never seen Ernst uneasy before," he wrote, "and he was very noticeably uneasy on the proposition of ordering the file [from the client] and did not ease up until he started talking in terms of getting the file and our agreeing to take no action on the first instance but setting a trap for a second instance."

The Bureau's memorandums on the case are the only ones in the Ernst F.O.I.A. file with significant passages censored. In the end, so far as can be ascertained, no basis was found for the allegation made by Ernst's client.

From that time forward, however, a note of reserve entered the F.B.I. side of the correspondence, as though Hoover felt Ernst had let the Bureau down. Then, in December 1953, something happened between Ernst and the F.B.I.'s New York City office that accelerated the cooling of relations. All we know about it is from a glancing allusion in a memo Nichols wrote to Tolson:

I frankly don't see any point in lunching or dining with Ernst. He probably is excited about the Director's letter [of December 28, 1953, defending the Bureau's position on disclosing summaries of files]. I am going to be quite frank with him and in addition tell him that we have instructed our New York Office not to contact him in the future growing out of the incident several weeks ago.

To that, Tolson appended a note: "I don't think he

\* Angela Calomiris, author of *Red Masquerade*, a book about her experiences as a Communist Party worker. She joined the party after being recruited by the F.B.I.

*Will read this line out*



should be told this." Hoover added, "I agree."

Ernst wasn't told; he continued to correspond, but Nichols took the first opportunity to rap him on the knuckles. On January 20, 1954, Ernst sent Nichols a copy of a letter he had received from Senator Wayne Morse, together with his reply, adding, "I must ask that you return it without further comment if you think, by chance, it will ever be seen by the Attorney General." Nichols rejoined, "I was somewhat taken aback by the tenor of your note because neither Mr. Hoover nor other Bureau officials are given to violate [sic] personal confidences or handling personal correspondence in an indiscriminate or indiscreet manner."

**W**as Ernst's conduct throughout the strange correspondence free of "overt improprieties," as the A.C.L.U. inquiry concluded in 1977? Ernst's defenders have said that someone had to maintain contact with the F.B.I. and that by doing so, Ernst put himself in a position to exert positive influence on Hoover. It is true that Ernst occasionally intervened with Hoover to try to get favorable treatment for a friend or client, but the correspondence turns up only a half-dozen such instances. Of course there may have been others that were handled in personal conversations, although the rather meticulous notes of Hoover and Nichols do not record this.

It has also been said that Ernst never named names. Certainly he was not a prolific name-dropper. But he did name names on occasion. At one time he gave Hoover the names of four associates of William Remington, who had been convicted on perjury charges growing out of allegations made against him by Elizabeth Bentley, the so-called Red Spy Queen.

On May 17, 1944, Ernst wrote Hoover seeking guidance about a prospective client, a German alien, who wanted quota rather than visitor's status. On October 20, 1944, he advised Hoover, "Our office no longer represents" the individual. He wanted Hoover to know this "because of previous pleasant talks." On September 7, 1948, Ernst wrote Hoover that he wanted to talk to him "in regard to a dame named. . . ." He identified her as having a brother high in Communist Party ranks. "I would like to talk to you about this lady if you are in a position to let me give you some information," he wrote.

A memorandum from Nichols to Tolson dated March 25, 1953, reported a conversation with Ernst concerning a man whom President Truman had wanted to appoint Secretary of Labor. Ernst had said he knew the man's wife had been a Communist twenty years before.

On November 12, 1953, Nichols noted in another memo that Ernst's firm had been asked to represent a man who had figured in the Alger Hiss case and whose brother's name had come up in the Army-McCarthy hearings. "Morris may want to call us later about this when they get further details," Nichols wrote.

On March 13, 1953, Hoover wrote Ernst to thank him for providing the Bureau with the name of a physician and promised that a special agent from the New York City office would promptly interview the doctor in connection with

Ernst's report. On May 10, Nichols wrote Ernst inquiring about a conversation Ernst had had with Harvey Matusow, the F.B.I. informant who was later exposed as a pathological liar in a sensational series of personal statements that ultimately led to his being convicted of perjury. Ernst thought he had told Nichols of the talk; Nichols thought not. Instead he recalled Ernst talking to him March 29 about "some of your contacts in Washington regarding the Army situation which was then breaking into the open," i.e., the aforementioned hearings at which Senator McCarthy's charges of Communist infiltration of the military were thoroughly discredited.

The correspondence shows that Ernst did attempt to use his Hoover connection to help, among others, a prominent opera star threatened with deportation, a rising young historian who needed a security clearance, a German refugee and two anti-Nazi authors accused of some vague Communist connections. Legend has it that he also intervened in behalf of Edward R. Murrow, who had come under criticism for having leftist sympathies, but the only reference to the CBS commentator in the files is a letter to Hoover in which Ernst promises to ask Murrow to stop criticizing the F.B.I.

Ernst was a persistent purveyor of tittle-tattle but his information didn't amount to much. A lot of it was floating around New York literary circles. Sometimes he told Hoover he had heard that so-and-so was representing a radical; occasionally he passed on courthouse gossip about judges or legal strategies. When read today it sounds like run-of-the-mill dinner-table talk at "21." His requests for information about clients, prospective or actual, is a different story. Is it usual for lawyers to consult the police before deciding to represent a client? I hope not. But Ernst did not regard the F.B.I. as a police organization, and as far as he was concerned, that was that.

We should remember that Ernst was a self-confident and opinionated man. He felt there was no limit on what he could do. Once in a sketch in a New York Bar Association Pipe Night show, a Morris Ernst character said he was in a terrible quandary. What was the trouble? Morris had one hundred solutions but only ninety-five problems. Ernst loved to play the role of iconoclast yet if anyone challenged his admiration of the F.B.I. he simply asserted it more stubbornly. He liked to champion unpopular causes. Every accused man, he often said, no matter who he is, what he has done or what he represents, is entitled to a legal defense. He had an aphorism that he often repeated, particularly when talking about Communists or those he believed to be Communists. "If it looks like a duck and walks like a duck and quacks like a duck, it is a duck." That simplistic formula helped him resolve complex moral problems.

His relish for taking on unpopular causes sometimes got him into trouble—for instance, the time he represented Frank Costello, the gangster. Ernst did not solicit Costello's legal business but when the latter appeared on his doorstep he did not turn him away. Costello had a civil rights problem. He was being hassled by the police and the district attorney, but no charges had been brought. Ernst told them to

put up or shut up, and they did. Costello gave Ernst a magnificent Tiffany watch the following Christmas. Ernst didn't need a watch, so his wife took it back to the store for exchange. The jewelers examined it and said, "It's a fine Tiffany case but the works are not Tiffany's." Later, when Costello wanted Ernst to defend him on income tax charges, the firm suggested Ernst best not represent him.

### PART III

## The Rosenbergs: A Cause Too Unpopular

To anyone familiar with his record, the revelation that Ernst had sought to insert himself in the Rosenberg case could have come as no surprise. To be sure, the A.C.L.U. had taken the strongest possible stand against the Rosenbergs. As early as May 2, 1952, the organization had issued a long statement declaring that on no point did the Rosenberg trial or the verdict raise a civil liberties issue. It was signed by Herbert Monte Levy, A.C.L.U. staff counsel, and there is no reason to believe that Levy's stand differed from that of Ernst and other members of the A.C.L.U. board. The tough stand was reiterated December 8, 1952, in a declaration by the board: "We limit ourselves to issues involving civil liberties, and we find no such issues in this case."

A score of times Morris Ernst had asked Hoover and Nichols, "What can I do for you?" He had done so at the time Judith Coplon's case was in the courts. According to a memorandum from Nichols to Tolson dated June 1, 1950, Ernst had raised the question of defending Harry Gold, the confessed Soviet spy, saying, according to Nichols, that "he wondered if this was something that he should do wherein he could render a service." The Bureau had no interest in Ernst's proposal; Gold had counsel, and the F.B.I. had all it wanted out of Gold.

Given Ernst's doggedness, what could be more natural than that on December 19, 1952—eleven days after the A.C.L.U. had declared it would not join the Rosenbergs' appeal—Ernst should call Nichols to say that he had been in touch with the Rosenberg family and thought there was a good chance of his entering the case. He said he was interested "on only one ground, namely, that he could make a contribution," according to a Nichols memorandum. Ernst told Nichols that he knew the Russians had scrapped all their germ-warfare propaganda against the United States; they were concentrating only on the Rosenberg case. If Julius Rosenberg "breaks and tells all he knows, this would be a terrific story and probably would be most helpful to the Bureau." He said he had met with Julius's sister Ethel Rosenberg Goldberg, another sister and his brother, and was looking forward to meeting with their lawyer, Emanuel Bloch.

Nichols quoted Ernst to the effect that he was convinced that if Rosenberg confessed it would save many lives but he

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did not wish to enter the case unless "it was agreeable," and he wanted as much information as possible from the Bureau on Rosenberg before talking with him.

If Ernst had expected a quick green light he was to be disappointed. Nichols gave him an equivocal reply after consulting Hoover. That might have been because so many spoons were already in the pot: the Central Intelligence Agency had plans for convincing the Rosenbergs that Stalin was bent on exterminating the Jews, the idea being that such propaganda would cause the couple to turn their backs on Communism. The F.B.I. probably had its own scheme, and God knows how many others were afoot.

When Nichols's memo was uncovered by Ronald Radosh and Joyce Milton last year, Ernst's friends immediately pointed out that the story was just Nichols's version and that he was not the most credible witness. As sometimes happens, however, the friends were wrong and Nichols, in essence, was right. Ernst did make an effort to involve himself in the Rosenberg case—an unsuccessful one as it turned out. But the initiative came from the Rosenbergs.

It is a sad and, in the end, pitiful story. By December 1952, the Rosenberg relatives were at their wits' end. Appeal after appeal had been turned down. The National Committee for the Rosenbergs was getting nowhere. Bloch could offer little hope. It was a low point, and they were trying to find prominent people to join in a call for clemency.

"I remember it very well," Rosenberg's sister—now Ethel Goldberg Appel—said in an interview last December: "We were making the rounds, my brother and sister and I. We went to see Mrs. Roosevelt in her office at No. 2 Park Avenue. We thought she was a friend. She received us and we read her a letter which we had written to President Truman. There was this sentence in it: 'Is it customary for the courts to condemn the innocent and let the guilty go?' This line seemed to move Mrs. Roosevelt very much."

But Eleanor Roosevelt told them, said Ethel ("I am very proud of that name: I share it with Ethel Rosenberg"), that if she signed a petition for clemency it would mean that she felt the courts were wrong and the Rosenbergs were right. She did not think she could do that. Instead, she suggested they see Morris Ernst, whom she described as a great civil rights lawyer. They had never heard of Ernst but they made an appointment, for either December 18 or 19, 1952. (Nichols's memo says Ernst saw them twice; Ethel remembers only one occasion.)

To her recollection, it was not a pleasant meeting and did not last long. Ethel's memory is that it consisted largely of a lecture on communism by Ernst. He had a copy of his book *Report on the American Communist* on his desk and pushed it toward her to read. At one point his secretary called Ernst out of the room. While he was gone, Ethel made some angry observations, but her brother shushed her, pointing to the desk. He thought there was a tape recorder there. They sat in silence until Ernst returned. That was the end of it as far as she recalls. They told Manny Bloch about it, and he said, "What did you expect—he's the F.B.I. lawyer." She is not sure, after all these years, if Bloch had approved of their consulting with Ernst. She thinks he said,

Go ahead, see what he says—something like that.

So that was how Ernst entered the Rosenberg case. According to Nichols, in another talk he had with Ernst, on the evening of January 9, 1953, Ernst had said he thought Bloch didn't want him on the case and preferred that the Rosenbergs be executed (reflecting a belief, common among some students of the case, that the Rosenbergs were more valuable to the Communists as martyrs). He had also elaborated a theory that Julius Rosenberg was the weaker partner in the marriage ("Julius is the slave and his wife, Ethel, the master"—a pseudo-Freudian thesis that was advanced at the time in some C.I.A. studies). Finally, Ernst wrote a letter to Ethel Goldberg, which she has kept to this day. It is dated January 23, 1953.

Ernst said he was writing "so that there will be no misunderstanding between us."

After sitting with you and your sister and your brother and without any commitment whatever to represent you, I made an offer which you seemed to be enthusiastic about, that I would be glad to see the attorney for Mr. and Mrs. Rosenberg. I told you I did have an angle which I thought might conceivably save their lives. I also told you that I would not represent the family or do anything whatsoever without first having a conference with the attorney for your brother and his wife. He has the responsibility for possibly saving their lives.

Ernst went on to say, "I have had several conversations with you and Mr. Bloch." He made the same assertion, if Nichols is to be believed, to the F.B.I. But Ethel Appel remembers only one meeting. Perhaps there were telephone calls that have slipped her mind. Ernst continued, "I am at a total loss to understand [Bloch's] failure to see me as he promised he would."

Ernst wrote that he wanted "no implication that I am in default in any way to move forward in the single direction which I have mentioned to you." Then he added, "I have an idea, however, that your brother, at our conference, perceived the tactic which was lying in my mind at the time of our lengthy talk, a tactic which seemed to me to have some hope of saving at least your brother's life."

The implication of this cryptic letter (and probably cryptic conversation) is that Ernst's "tactic" was that Rosenberg save his life by confessing.

What to make of this? Certainly Ernst was correct if he felt that by confessing Julius could win clemency for himself and his wife. Such an admission was precisely what the government had been trying to obtain from the beginning. In fact, the minutes of a February 8, 1951, meeting of the Joint Congressional Committee on Atomic Energy spell out this strategy in clear and simple language. The death sentence would be demanded for Julius (at that time no one thought it might be applied to Ethel) to put maximum pressure on him to confess and reveal the details about Soviet espionage plots in the nuclear field. He was described as a "tough nut" and nothing less than the threat of execution would compel him to confess.

Certainly there is no reason to suppose that Ernst thought the Rosenbergs innocent or that their sentence was in any

way unjust. (Four years after their death, Ernst would request and obtain materials from the F.B.I. in order to engage in a polemic with Bertrand Russell in which Ernst insisted on the guilt of the Rosenbergs and the full legality and justice of their execution.) Still and all, is this the response one expects from a champion of civil rights when a last-ditch appeal is made to him? And what of the quick telephone call to the Bureau? It is fair to say that by that time Ernst felt no obligation to convicted Communist spies—in other words, to the enemy.

Morris Ernst did not adhere to the doctrine prevalent today that it is precisely in cases involving people whose ideology is repellent to most Americans—native fascists, members of the Ku Klux Klan, American Nazis, fringe radicals, communists—that the civil libertarian must be most resolute. Nor did his colleagues at the A.C.L.U. Ernst was a man who believed in the First Amendment, but not in absolute terms. The exercise of free speech must be reasonable. According to Nichols, in 1956 Ernst toyed with writing an article pointing out that the F.B.I. was not alone in its use of “faceless informants”; newspaper reporters also refused to identify their sources. He even ruminated over the possibility that authors should be forced to disclose their identity and not hide under pseudonyms.

But as far as Ernst was concerned, Communists had been placed beyond civil liberties bounds in 1940. It was not his loyalty to the Bureau that determined his attitude toward the Rosenbergs; it was his conviction that they were instruments of an international conspiracy against American freedom.

In a 1953 memorandum, Nichols recounted that on the afternoon of June 4, either Ernst or someone reporting Ernst's views (the memo is not clear) dropped by Nichols's office while he was out. The visitor left a message—a prediction that the “first break” in the Rosenberg case would come when Julius and Ethel admitted they were Communists. Fifteen days later, June 19, 1953, the Rosenbergs died in the electric chair. They had never admitted anything.

**T**oward the end of the 1950s the strange correspondence was approaching a bumpy end. Ernst wrote an agonized letter to Nichols on August 7, 1957 (it had been a long, long time since he had had any genuine exchange with Hoover), saying he was “bewildered and shocked by the message you sent me from Edgar.” The message could not have been more blunt: Nichols told Ernst he could not understand why he would even call the F.B.I. in view of his “conclusion that we had rigged the typewriter in the Hiss case.” He was referring to a statement that Ernst had made in relation to Alger Hiss's book *In the Court of Public Opinion* and that had appeared in an advertisement in *The New York Times* of May 13, 1957. Ernst said that while he had not read the trial record, he was “now inclined to believe that Hiss was not guilty. . . . I have a hunch that the validity of the court processes in the Hiss case may one day be profoundly re-examined.”

In his letter Ernst assured Nichols that he was not challenging the typewriter evidence; his conclusion was based on other considerations. But Nichols, after discussing the mat-

ter with Hoover, personally told Ernst, “If Hiss was innocent, then the F.B.I. lied.” In a memo to Hoover reporting his talk with Ernst, Nichols wrote, “I told him the typewriter was the key and that, if he did not believe *the typewriter hoax*, his position was all the more untenable and cast an even greater reflection upon the FBI.” (The emphasis is mine. Was the use of the word “hoax” a Freudian slip?)

Hoover scribbled on Nichols's memo: “He is a liar and I want no explanations from him. I will not allow any FBI contact with him.” Hoover ordered a full examination of Ernst's record “for the Director's information.” It was a classic F.B.I. production. Although Hoover had been friendly with Ernst for twenty years, the report pulled no punches. Between 1925 and 1941, it said, Ernst had been connected “with a number of cited communist fronts, such as the American Labor Party, the Garland Fund and the National Lawyers Guild.” It conceded that he had resigned from the last-named group in 1940 but went on to explain that he had attended “a secret Communist Party meeting at Chicago, Illinois, 12-21-39” on behalf of the A.C.L.U. and that in 1956, the Greenwich Village Section of the Communist Party considered inviting him to speak at a rally for the Communist newspaper *The Worker*. On the other hand, it did mention Ernst's writings and speeches opposing communism. There was a note that Ernst had been defense counsel for Robert Vogeler when he was prosecuted for espionage in Hungary in 1950, and another reporting that in 1943 he acted as attorney for Frank Costello, “a well known gangster and racketeer.” It was a typical example of information contained in the raw files of the organization to



which Ernst had devoted so much of his energy and admiration.

In late October 1957, Nichols resigned from the Bureau. Ernst wrote to him: "I think from time to time, I have been of some slight help to you and the FBI. Do let your successor know that I will always be available for such cooperation." So far as the record indicates, Ernst's phone never rang, and the strange correspondence dribbled off into a few random notes. There was, however, one letter of genuine importance during this last period.

## PART IV

# The Galindez Case: On Trujillo's Service

On the evening of March 12, 1956, at about 9:15, Jesús de Galindez, a Basque exile, left Room 306 at Columbia University's Hamilton Hall, where he had delivered a lecture to his Spanish-American history class, and was driven by a student named Evelyne Lang to the Columbus Circle subway station. Presumably he was en route to his shabby book-crammed apartment at 30 Fifth Avenue. He was never seen again.

The disappearance of Galindez caused a great stir. He was a quiet, scholarly man who had left Spain at the end of the Civil War and had gone to France, where he stayed until the Nazi invasion prompted him to take refuge in the Dominican Republic. There he lived until 1946, when he came to the United States. He was, in a modest way, an opponent of the dictatorial regime of Gen. Raphael Trujillo. Soon after Galindez's disappearance, police and reporters began turning up evidence that he had been kidnapped by Trujillo's agents and that on the same night he had been flown to the Dominican Republic in a light plane, identified as Beachcraft N68100, piloted by a young man named Gerald Murphy, which took off from Zahns commercial airport at Amityville, Long Island. The plane had been fitted for long-distance flight. All kinds of rumors fluttered around the case, including reports that the F.B.I. and the C.I.A. had had some hand in it. About a year later *Life* published an article purporting to track the Murphy plane from several days prior to Galindez's disappearance and on to the Dominican Republic where, *Life* asserted, Galindez was murdered.

The Galindez case was one of those baffling mysteries that do not fade away. It became a *cause célèbre*. One reporter after another unearthed the "inside story" of how Trujillo had killed Galindez.

Whose idea it was to have Morris Ernst look into the Galindez matter is uncertain. What is known is that the proposal came from Trujillo himself, or rather from the New York City firm of Sydney S. Baron, which handled public relations for the dictator. Ernst was asked if he would undertake an independent inquiry. Whatever money he needed would come from Trujillo via Baron; he would be given unhindered access to materials in the Dominican Republic

—police records, the works. He could conclude whatever he wished in his report; let the chips fall where they may. On July 16, 1957, Ernst accepted Baron's proposal.

Ernst certainly knew that Trujillo would not put up the money if he expected an unfavorable verdict. Ernst also knew that his critics—and he had plenty by this time—would gather like crows in a barnyard and peck at every grain of evidence, looking for bias or special favors. It was the hottest potato he had ever been offered, and that made it irresistible. His partners did not think it was something with which Greenbaum, Wolff and Ernst should be associated. Ernst agreed and told them he would set up a separate investigative bureau. The partners consented. After all, Morris Ernst was Morris Ernst. Some of his closest associates begged him to stay away from the case; whatever the outcome he would be hurt. But by then he was adamant. He had developed a plausible rationale for his involvement. He would be a warrior against "trial by press." Just because the press had produced evidence that Trujillo was guilty, it was more important than ever that he, Ernst, make an independent inquiry and establish the truth. Even the worst dog deserved his day in court. Of course there was no stopping Ernst.

To say that this was a cockeyed enterprise is putting it mildly. Ernst enlisted a respectable upstate New York judge, William H. Munson, as a co-principal and brought in Alan U. Schwartz, a bright young lawyer at Greenbaum, Wolff and Ernst, to do the legwork. "Before this is over," Ernst told Schwartz, "you are going to get your ears slapped. But that is what ears are for."

This unlikely trio plunged headfirst into as gamey a case as New York had known in a long time. Ernst's notion that he and his small, inexperienced staff could uncover facts in a case so cross-grained with plot and counterplot was preposterous. It did credit to his chutzpah but not his common sense. The underworld of Latin American intrigue, shadowy F.B.I. maneuvers and C.I.A. manipulations is difficult even for the world's toughest investigative reporters to penetrate; men like Peter Kihss and Tad Szulc of *The New York Times*, both of whom had had a whirl at the Galindez affair and both of whom had produced some very solid discoveries, had still left many questions dangling.

Of course, Ernst may have thought he had an ace up his sleeve: his friend J. Edgar Hoover. Hoover would slip him the gen or at least point him in the right direction and keep him from falling into black holes. If that was Ernst's hope it was totally dashed.

Initially, Ernst did something that was most peculiar for someone who intended to conduct an independent investigation. He invited the F.B.I. and the C.I.A. to assign liaison agents to his team. Exactly what he thought their role would be was never clear. The F.B.I. ignored the invitation. The C.I.A. sent a clone of the Man Who Came to Dinner. The agent showed up at the office every day, but gradually Schwartz came to realize he was not there to help them.

In fact, the C.I.A. man led Schwartz on a wild-goose chase. Schwartz was looking into a theory that Murphy might have flown Galindez to Cuba (then in the hands of Trujillo's fellow dictator Fulgencio Batista). Why Murphy

would have done that was not clear, but it was a hot lead and Ernst instructed Schwartz to go to Cuba to inspect the Havana airport logs and interview Cuban secret police.

It turned into an episode from *Casablanca*. The C.I.A. man, who sometimes called himself Flory, sometimes Freeman, sometimes Fogarty and probably possessed a half-dozen other aliases, went along as Schwartz's guide, companion, interpreter and bodyguard. Hardly had Schwartz checked into the Havana Hilton when the telephone rang. An unknown voice left an incomprehensible message. Schwartz and Flory a.k.a. Freeman/Fogarty visited the offices of the Cuban secret police. The corridors resounded with the screams of alleged Castro supporters whom the police were beating up. Schwartz tried to pursue his inquiry. He was handed a file, but it was on the wrong Murphy. When he told the cops it was the wrong one, they began to curse and shout. Schwartz and F-F-F slipped away. Back at the hotel the telephone rang. A voice at the other end told Schwartz that if he was not out of Havana by nightfall he would be kidnapped by Castroites. F-F-F said they must leave immediately. Schwartz said no, he had to call Ernst. He called Ernst and started to tell him what had happened, using a prearranged code. "Never have an open conversation on the Cuban lines," Ernst had told him. So Schwartz began to talk about a divorce case, as agreed. "What are you talking about?" Ernst roared. "I can't understand a thing. Talk English." He had forgotten the code. Soon he called back and gave Schwartz permission to leave Havana. He and F-F-F caught a cab for the airport, but when they were almost there, the C.I.A. man told the driver to stop at a brothel. Ever since, Schwartz has wondered if the place doubled as a C.I.A. safe house. After an hour or so the agent emerged; they caught their plane and returned to New York City.

Of course, the Ernst inquiry was not all fun and games, and when the report came out everything hit the fan. Ernst had never felt such a backlash in his career. The report was dated June 1, 1958, and the cover page had a pseudojudicial format:

Report and Opinion

In the Matter of Galindez

Report and Opinion: Morris L. Ernst

Concurring Opinion: William H. Munson

Alan U. Schwartz: of Counsel

Its conclusion: "There is no evidence of any nature which we have come across pointing toward [Galindez's] death or of any crime connected with his disappearance." Certainly they had come across no such evidence. How could they unless Trujillo obligingly had turned it over? They had tracked the Murphy plane and had tentatively concluded it had gone to Havana, but the report was not clear as to what it might have done there. A major part of the report dealt with a Basque fund of \$1 million which Galindez had handled. After his disappearance the fund dried up, which the report noted along with the fact that he had two numbered Swiss bank accounts. No explanation of where the money had

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come from was offered, however. Ernst believed it had been provided by the C.I.A. Later he said he didn't mention that fact for reasons of national security. He and Schwartz had lunched in Washington with J.C. King, then chief of the C.I.A.'s Western Hemisphere Division, who told him that if the agency connection was exposed the lives of 200 to 400 people in Western Europe would be endangered.

After the report came out and the criticism rained down, Ernst concluded he had made a terrible mistake. He should have mentioned the C.I.A. connection, which was beginning to be discussed publicly. (In his Washington column Drew Pearson reported the supposed threat to the Europeans if the information was released. Pearson suggested, wrongly, that the money had been spent in an effort to overthrow Franco.) Two months after the report was released, Ernst wrote Sydney Baron proposing that the inquiry be reopened. He particularly wanted to make public the C.I.A. connection. Baron replied, No thanks. Trujillo had got his money's worth and had no need of any further revelations.

The dictator had laid out a considerable sum. According to figures made public in October 1958, the total cost to Trujillo—or at least the amount Baron reported he had received, in a public statement—was \$562,855. Ernst received \$70,000 and Munson \$30,000 for their efforts. Ernst was paid an additional \$101,793 for expenses, such as Schwartz's trip to Havana and the rent on the office. Baron reported \$14,708 in expenses and \$330,000 compensation.

After the assassination of Trujillo, in May 1961, the government of the Dominican Republic opened its files on the Galindez affair. Many reporters examined them, interviewed witnesses and reconstructed an account that left no doubt that Galindez had been kidnapped and flown to the Dominican Republic by Murphy, just as reporters had originally surmised, and then was killed after a dramatic confrontation with Trujillo, who told him, "Now your life is worth no more than one page of the lousy book you are writing." Murphy and almost everyone associated with him had died violently in the next few months: killed in brawls, falls over cliffs, etc. In fact, all were murdered. When those reports began to appear, and particularly when Tad Szulc published a vivid and detailed account in *The New York Times*, Ernst said that he "welcomed an inquiry" but showed no interest in taking up the case again. His only regret continued to be that he had not named the C.I.A.

Indeed, the agency's role remained the only genuine mystery in the case. What was its involvement? Alan Fitzgibbon, a historian who has devoted many years to studying the Galindez case, who has patiently and persistently recovered thousands of documents from the C.I.A. and the F.B.I. and who is still fighting in the courts for the many hundreds of pages the C.I.A. withheld, has put together what seems to be a precise picture of the role of the agency. It had nothing whatever to do with Galindez's death. The C.I.A.'s only interest in Galindez was as a transmittal belt for funds to the Basque underground. Galindez performed that service automatically. He might not even have known that some of the money he passed on might have been from

the C.I.A. He had inherited the trusteeship of the Basque fund and simply continued the flow. Primarily, the C.I.A. was interested in preventing anyone from knowing about the Basque espionage network it was directly funding in Paris. The funding had started with the Office of Strategic Services during World War II, when Spain was virtually an enemy country. Once the war ended and the C.I.A. came into being, the United States still had only peripheral diplomatic relations with Spain. The agency could not set up its own station so it went on doing business with the outfit set up by the O.S.S.

The idea that revelations about this whiskered operation could possibly cause harm is incomprehensible to the most security-minded person. But the C.I.A. responded as though the family jewels were at stake. It sent a team into Manhattan to comb Galindez's room for embarrassing evidence and hovered like a mother hen over the case, convincing everyone that Galindez was indeed a critical agent—just the opposite effect that the agency had intended. Dozens of reporters, investigators and, no doubt, foreign spies gathered to try to pick up the pieces. It was just one more high comic episode provoked by the C.I.A.'s chronic security mania.

The F.B.I. had a much more direct and pedestrian connection with Galindez. He was an informant—not an important one, but a handy man to keep an eye on Latin American radicals. The Bureau also checked out Galindez's room; it found nothing revealing there and simply faded out of the picture. The F.B.I. and the C.I.A. each knew of the other's interest, and each probably knew from the beginning who had kidnapped and killed Galindez. But far be it from them to volunteer information to the enforcement arm. And they are still stonewalling.

## PART V

# A Sad Letter and the Author's Postscript

**T**he Galindez case marked the end of the line for Ernst. It badly damaged his credibility. The world was changing, and his limited concept of civil liberties and fierce determination to place anticommunism in the forefront seemed dated. The nation had gone through the McCarthy period. It was recuperating from the binge, and Ernst had not played the kind of gallant role in opposing the Senator from Wisconsin that some expected from a man of his attainments.

On February 6, 1958, Ernst dictated to "My dear Edgar" the last truly personal letter of the strange correspondence. Ernst had, he felt, arrived at the crossroads. He had still not written his report on Galindez. The case was there yawning before him, its outlines blurred by the cloaks and daggers of government agencies, its mysteries frustrating, the truth slippery and elusive; and he may have been experiencing one of his rare moments of self-doubt. He wrote:

After more than twenty years of what I have cherished as a thoughtful and frank relationship between the FBI and myself, I am disturbed at a situation that has arisen. Since I may have misinterpreted some facts I would like to see you. I realize that I may not with propriety, speak to you about the inquiry I have been conducting into the Galindez disappearance. As you know I was hopeful that I could be helpful.

The correspondence with the Attorney General [Herbert Brownell] indicates that contacts between Judge Munson and myself and the FBI are precluded since in the language of the correspondence, the Attorney General has refused to give a "directive" for such contact. I do not want to see you in order to convey information as to the fruits of our investigation in our search for the truth, but I am most anxious to clarify what seems to me to be an odd kind of disturbance in my relationship to the FBI.

Ernst offered to come down at any time on a few days' notice if Hoover had a bit of time to spare for him. No response is recorded, nor is there any evidence the men ever met.

A sad, a tragic, letter. But Ernst was Ernst. He could not resist stuffing into the envelope the texts of two letters for the director's eyes, and he also summarized a review he had done of Hoover's new book. "It is a swell job that you did and I fully understand why its boundaries were circumscribed."

Ernst never understood the reason for Hoover's refusal to cooperate with him in the Galindez inquiry. He tried to convince himself it was the Attorney General's fault. He never realized that when he spoke up for Alger Hiss he placed himself on the other side of the barricades. When he decided to take the Galindez case he had gone around, as usual, to see Nichols to offer the F.B.I. anything he dug up on Galindez and to ask for Bureau support. His imagination could not have encompassed the savage comments that Hoover would initial on every memorandum concerning him and Galindez, each more violent than the last: "I certainly want no part of using Ernst in any medium"; "Ernst is always maneuvering—in his own interest."

On September 19, 1957, an F.B.I. official, G.A. Nease, wrote Tolson a memo saying he had advised a former agent whom Ernst wanted to hire that "if he wished to smell like a skunk, a good way to accomplish this was to continue to associate with them." Hoover scribbled, "Very sound advice." On October 22, Hoover wrote in his crabbed hand: "The FBI will have no dealings with Ernst because (1) he is a Trujillo agent (2) his review of Hiss' book indicates he believes the FBI framed the evidence."

Hoover's last recorded note to Ernst was sent June 4, 1958, a three-line acknowledgment of a copy of the Galindez report. A blind postscript was typed on the letter:

Note: The enclosed voluminous report has been separately sent to the Domestic Intelligence Division. The report is highly controversial and no further comment is believed desirable. Ernst was formerly on the Special Correspondence List and the Bureau is most circumspect in its dealings with him on this matter.

Hoover then alerted the F.B.I. to watch closely for any violation by Ernst of the Alien Registration Act.

Although I have called it "strange," the correspondence deserves a more thoughtful characterization than any of the terms in my introductory paragraphs can provide. A profound lesson can be drawn from the letters, particularly at this time when, again, those manning the ramparts of civil liberties are pondering the consequences of close association between the defenders of free expression and those who seek to undermine and violate its foundations in our democracy. Some of the issues involved in the Ernst-Hoover exchange are present in current controversies over the role of the A.C.L.U. and the C.I.A. in the Freedom of Information Act legislation.

Indeed, those issues are always present and can be illuminated only by a study that takes up the still largely unexamined question of Hoover's manipulation of American opinion. How did Hoover's machinations distort the workings of American institutions and the conduct of public officials? How did they affect influential private citizens? To what specific uses did Hoover put his remarkable files?

To put it bluntly: Whom did he blackmail and with what success?

Hoover has been dead for a dozen years. Not yet has a penetrating analysis been attempted of the behind-the-scenes activity of the Master G-man, the nation's "top constable," as Ernst called him.

Today there is sufficient material in the public domain to begin to sketch the dimensions of this malign force even if, as alleged, masses of Hoover materials were destroyed. It is an exercise that cries for execution. Until it has been accomplished we will remain in ignorance of the extent to which our democratic process was debased by an agency whose highest duty is the protection of the American ethos against crime and conspiracy. And the danger that it may happen again will continue to lurk in the dark corridors of bureaucratic Washington. □

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