

# 2 Hiss Trial Jurors Had Relatives in FBI

New York

Two jurors who voted to convict Alger Hiss of perjury in a celebrated trial in 1950 had relatives working for the FBI.

The bureau noted during the trial that prosecutors had wanted this "kept quiet."

An FBI report on the jurors' connections has become available under the Freedom of Information Act. It was made known by the former State Department official's son, Tony Hiss, who will refer to it in a book on his father, "Laughing Last," to be published by Houghton Mifflin in February.

On learning of the report, one Hiss trial defense lawyer, Harold Rosenwald, said in Boston that it indicated a knowing use of jurors "prejudiced in favor of the prosecution." He contended this should have voided prosecution — with "no right" to any new trial — if disclosed at that time.

However, other lawyers, who preferred not to be identified, said there was no formal requirement that law-enforcement affiliations be disclosed by prospective jurors.

The issue is frequently raised during a federal judge's screening of jurors — but at the judge's discretion. Otherwise, it would appear to be up to a defense lawyer to propose such a question.

Supporters of Alger Hiss have been digging through FBI documents in a continuing effort to demonstrate that he told the truth when he denied giving State Department documents to a self-described Communist spy courier, Whittaker Chambers, through April 1, 1938.

Tony Hiss said that two others of the 12 jurors who voted to convict had been "likely to be predisposed to be favorable to the prosecution."

One, he said, was the wife of the bailiff in the court of a judge who had ruled against a defense motion to change venue. The other he described as an "awed" woman member of a church in which the federal trial judge, Henry W. Goddard, was a vestryman. Goddard's rulings and charge had been pictured as "prejudicial" in the unsuccessful Hiss appeal.

Such backgrounds, if known, would have been grounds for defense challenges while the jurors were being chosen, according to Rosenwald.

The second Hiss trial ran from Nov. 17, 1949, to Jan. 21, 1950. An FBI document dated Nov. 21, 1949, reported Alan H. Belmont, New York City division chief, as saying that "two members of the jury in this case have relatives working in the bureau."

The report said Belmont had made this information available to Thomas F. Murphy and Thomas J. Donegan, the prosecutors, "who expressed appreciation upon receiving it and requested that it be kept quiet."

Alger Hiss' own 1957 book, "In the Court of Public Opinion," had referred to Goddard's disclosure during the trial that one juror was a bailiff's wife. The defense, Hiss wrote, "waived the right" to dismiss her because a new trial would have meant more cost and would have delayed anticipated vindication.

*New York Times*