

The Rosenberg Trial

To the Editor:

It appeared 21 years too late, but I am grateful to The Times and to Allen G. Schwartz for his revealing article on the Rosenbergs' trial (Op-Ed June 19, the 21st anniversary of the electrocutions of Julius and Ethel Rosenberg. Mr. Schwartz gives an effective history lesson to Federal Judge Simon Rifkind, who can see no reasonable doubt that justice was done.

No doubt, Judge Rifkind? Let me refer you to the prophetic protest of Supreme Court Justice Hugo Black, the very day of the executions, June 19, 1953:

"... this Court has never reviewed this record and has never affirmed the fairness of the trial below. Without an affirmance of the fairness of the trial by the highest court in the land there may always be questions as to whether these executions were legally and rightfully carried out."

No doubt? The Second Circuit Court, the only one which reviewed the record, clearly suggested doubt when it said: "... if the Greenglass testimony is disregarded, the convictions could not stand." It noted that the Greenglasses were confessed criminals, anticipating leniency in return for their testimony, but it held that under our Federal judicial system only juries can review the question of witnesses' credibility.

(After the trial, all kinds of evidence

was unearthed which shattered Greenglass' credibility, including his own handwritten statement to his lawyers, proving that he had lied repeatedly throughout the trial. In effect, the courts held that this evidence came too late. Some, indeed, came too late to save their lives, but not too late to show wherein justice had failed.)

Rifkind was evidently unaware that Judge Learned Hand overrode Judge Kaufman and granted a stay of execution because of "wholly reprehensible" prosecution conduct, virtually pleading with the Supreme Court to examine the record. Had the Court but listened, the tragedy might well have been averted, and the Circuit Court might have been spared the embarrassment of its finding, one decade later, that the trial had been marred by unlawful and prejudicial questioning of Ethel Rosenberg by prosecutor Saypol and Judge Kaufman.

Even Judge Rifkind should be able to understand why the entire Supreme Court separated itself from "the wisdom and appropriateness" of the death sentences: If America must surrender its humane traditions and its precedents against peacetime executions of spies, should we select a case where the verdict depends upon the uncorroborated oral testimony of admitted criminals, testimony purchased with promises of leniency? And in a case where the alleged acts are committed to help a wartime ally, rather than the enemy? AARON KATZ

Brooklyn, June 26, 1974