

BAR GROUP BACKS ROSENBERG JUDGE

JAN 9 1976

Unit Formed to Counteract
Criticism Over Spy Trial
NYTimes

By PETER KIHSS

Formation of an American Bar Association subcommittee "to counteract unwarranted criticism" of Judge Irving R. Kaufman for his conduct of the 1951 atomic spy trial of Julius and Ethel Rosenberg in Federal Court here was announced yesterday by a former Federal judge, Simon H. Rifkind.

Mr. Rifkind, chairman of the subcommittee, said it would also "scrutinize the unfolding publicity" on the case, resulting from the newly released Federal files, "to make certain that public respect for law and for the judicial process is not subverted by unfounded charges."

Incomplete reviews of the newly opened files so far "indicate that the Government possessed additional evidence indicating the guilt of the Rosenbergs," Mr. Rifkind said. He asserted, "Not one shred of exonerating evidence has been discovered from the materials released to date."

"It is now clear," he added, "that the Atomic Energy Commission was deeply concerned that disclosures pertaining to the material obtained by the Rosenbergs might pose grave dangers to national security."

Others on the Panel

Mr. Rifkind said the subcommittee of the association's Task Force on Courts and the Public included the task force's own chairman, Donald R. Fretz, a judge of the California Superior Court; G. William Shea, of Los Angeles, and William B. West 3d, of Dallas.

Its creation, he said, was initiated by the association's president, Lawrence E. Walsh, also a former Federal judge.

Mr. and Mrs. Rosenberg were electrocuted June 19, 1953, for conspiracy to communicate information to the Soviet Union, including secret data on the atomic bomb.

Death sentences, Mr. Rifkind said, were "not unusual" in that period. He said 413 per-

sons were put to death in the United States from 1950 through 1954, but he conceded that sentiment had since turned against such sentences.

Mr. Rifkind said there had been no violation of the privilege of confidentiality in lawyer-client relationships as a result of an informant's reports on talks with the Rosenbergs and their lawyer, Emanuel Bloch, on trips to Sing Sing Prison and in the death house. He said the informant had volunteered reports to the Federal Bureau of investigation, and that documents quoted by an author-researcher, Walter Schneir, had followed the trial.

Separate random searches by newsmen — aside from Mr. Schneir's data — had also turned up a March 16, 1951, F.B.I. report — midway in the trial — on the informant's asserted conversations with Mr. Rosenberg starting the previous December.

These, the F.B.I. report said, cited lawyer-client talks over a concern that a physician might describe talks with Mr. Rosenberg about smallpox inoculations, implying plans for travel; the defense lawyer's plans for refuting testimony of a confessed spy courier, Harry Gold, as a prosecution witness, and a hope to induce "some reversible error" to allow an appeal.

Extensive Scrutiny Cited

Mr. Rifkind said that Judge Kaufman's conduct of the trial "has been more extensively and more carefully scrutinized by the appellate courts than any other case in American history," and "found flawless."

"Since judicial ethics prevent him from speaking for himself," Mr. Rifkind went on, "it is the duty of the bar to defend him against charges that are devoid of merit."

After conviction, Mr. Rifkind said, the Rosenbergs filed 16 petitions for District Court reconsideration, seven appeals in the Court of Appeals and seven more in the Supreme Court and two clemency applications to President Eisenhower.

"Altogether 112 judges dealt in one form or another with the Rosenberg case," Mr. Rifkind said. "Not one saw fit to question their guilt or their conviction."