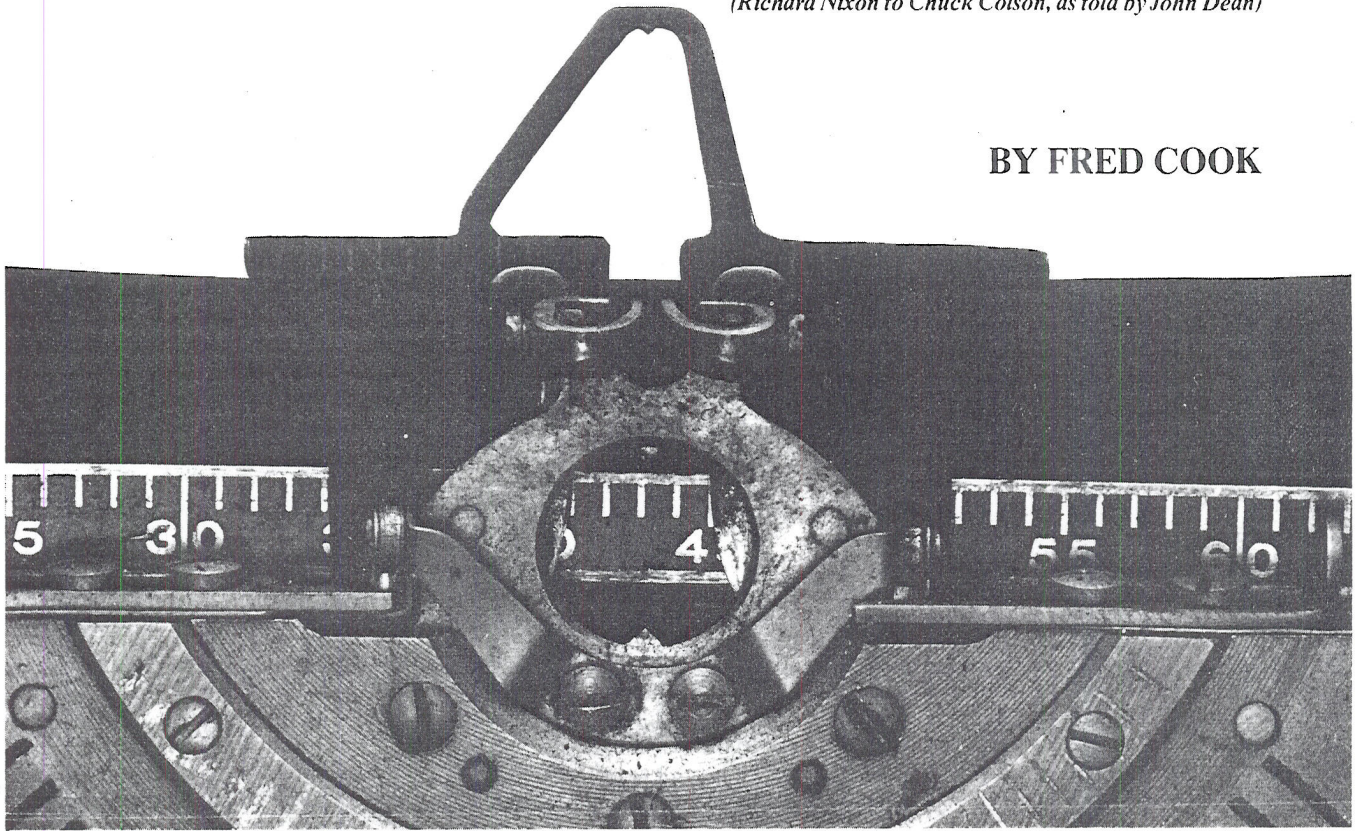


# "The typewriters are always the key."

(Richard Nixon to Chuck Colson, as told by John Dean)

BY FRED COOK



**New evidence from F.B.I. files, involving double agents and a typewriter that was apparently purchased before it was built, raises old questions about the Hiss case.**

The Alger Hiss case, the watershed episode of an entire generation tarred with the shadow of an alleged Communist menace, is heading for a new and probably final showdown in the courts based on two discoveries. It appears that the antecedents of the Watergate "plumbers" are to be found in this controversial case, which altered the course of American politics and stimulated much of the rhetoric of the cold war.

As a result of recent Freedom of Information suits, Hiss' attorneys have discovered: first, that Hiss was victimized by a double-agent, a detective hired to help him who was actually an informant for the Federal Bureau of Investigation; and second, that the Justice Department deliberately withheld from the defense exculpatory material in FBI files indicating that the mysterious Woodstock typewriter—a vital exhibit that played a major role in Hiss' conviction—was a phonied and fraudulent machine.

These will be the major pillars of a *coram nobis* action (a writ to correct earlier judicial error) that Hiss' attorneys are determined to file before the end of Fred Cook is the author of *The Unfinished Case of Alger Hiss* and *The F.B.I. Nobody Knows*.

the year in an effort to wipe out his 1950 conviction for perjury, based on the charge that he lied in denying Whittaker Chambers' accusations that he had been a Communist and a spy.

The two elements—the activities of the double-agent and the origin of the Woodstock—interlock to give a new picture of a Byzantine struggle that was to profoundly influence the political structure of two decades. Out of it Richard Nixon emerged as a national public figure, his feet set on the path that would ultimately lead to the presidency, Watergate and disgrace. Out of it came the McCarthy era with its chant of "twenty years of treason." Out of it came the knee-jerk, hardline reflexes of Democratic administrations, forever shy of being labeled "soft on communism"—and so, in the end, committed to the ultimate folly of the war in Vietnam.

The key figure, a man of intrigue and mystery, is a German-born private detective, Horace W. Schmahl—short, squat, with a heavy guttural accent; master of many languages and endowed with a wily ability to talk his way out of the most precarious situations.

John G. (Steve) Broady, the famous private eye once convicted and imprisoned for bugging New York's City

Hall, was Schmahl's employer in the later 1930s and 1940s. Broady recalls one daring exploit of Schmahl's that illustrates both his skill as a double-agent and his skill in getting out of scrapes.

During a visit to Germany in the days shortly after Adolf Hitler seized power, Schmahl ingratiated himself with Hitler's personal photographer to such an extent that he managed to steal and duplicate the keys to the darkroom and the private filing cabinets containing unpublished pictures of the Fuehrer. He purloined some of the best prints and smuggled them back to the United States.

"Some were not exactly flattering," Broady recalls, with a chuckle, "and of course those were the ones that sold for the most money here. There was a great furor in Germany when these pictures appeared in the American media, and the Nazis arrested Schmahl. They thought they had him dead-to-rights, and it was touch-and-go there for awhile. Of course, I pulled all the strings I could here, and Schmahl is pretty wily. He finally talked his way out of it."

The man who could walk away unscathed after rifling the private photographic files of Adolf Hitler was still working for Broady in 1948 when the



Schmahl and Broady: On the Woodstock trail

Hiss-Chambers case erupted in eight-column headlines during the height of the Dewey-Truman presidential campaign.

A cornerstone of the Republican campaign strategy was the oft-repeated charge that the Roosevelt and Truman Administrations had been dyed pink by Moscow. Support for this thesis was offered by Whittaker Chambers, a round-faced, beefy editor of *Time* magazine.

Chambers took the stand before the House Un-American Activities Committee in the hot summer of 1948 and testified that a number of second-echelon New Deal figures in the 1930s had been Communists. Among those he named was Alger Hiss, who had gone on to become a rising young star in the State Department and had been a member of the American delegation at the wartime big-power conference at Yalta.

Amazingly, in the light of subsequent developments, Chambers repeatedly testified under oath that Hiss had never been a spy. He had been too valuable to the party to be risked in such a role, Chambers declared; his function had been to influence policy.

In November 1948, the totally unexpected happened: Truman defeated Dewey. And Chambers, as he later revealed in his book, *Witness*, felt threatened. The administration he had done so much to blacken had been returned to power and was in a position to investigate and possibly prosecute *him*.

Instantly, Chambers' oft-times repeated tale of subversion took a 180-degree turn and became a story of espionage. Hiss had sued Chambers for libel; and when depositions in the libel case were taken in Baltimore, Chambers, who had sworn Hiss had *never* been a spy, declared Hiss had *always* been a spy. And he produced a batch of State Department documents that, he de-

clared, Hiss had brought home for his wife to copy on an old Woodstock typewriter the family once had owned.

This started a typewriter hunt unrivaled in history. Hiss' wife, Priscilla, née Fansler, had been given the Woodstock by her father, Thomas. Fansler had been in partnership with Harry L. Martin in a Philadelphia insurance business from the spring of 1927 (a significant date) until late 1930. When the partnership broke up, Fansler gave his daughter the Woodstock that he had purchased. Mrs. Hiss had used the machine to type letters, but it had long since vanished from the Hiss household, having been discarded as a virtually worthless piece of junk. Where was it now? And if it could be found, would it prove or disprove Chambers' tale of document copying?

Enter the double agent. Edward C. McLean, Hiss' original attorney, contacted Broady. Hiss recalls McLean later telling him: "We're not big enough for Steve Broady to handle this himself, but he'll assign a couple of his men." The investigators Broady put on the case were Schmahl and Harold B. Bretnall. It would appear from McLean's time sheets, however, that Schmahl was in charge. All conferences, telephone calls and reports deal with Schmahl; Bretnall's name never appears.

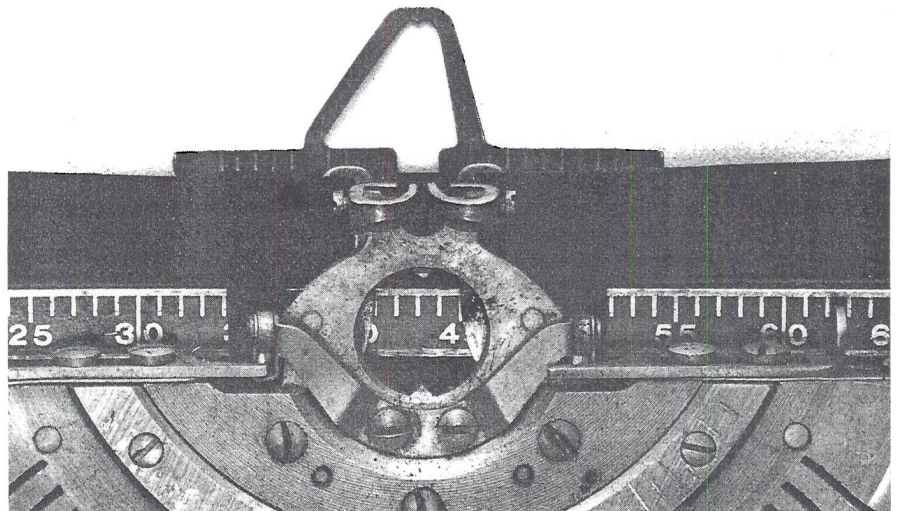
Hiss met Schmahl in a conference in McLean's office on October 22, 1948. "I didn't like him," he recalls now. "He was short, squat, with a heavy German accent . . . and there was just something about him [Hiss shrugs recalling his intuition] that I didn't like. But Broady vouched for him, and so . . . [another shrug]."

It was not, Hiss says, until years later—after he had been convicted and was preparing an appeal—that Chester Lane, his new counsel, shocked him with the question: "Did you know that Schmahl was a double agent?"

Chester Lane had seen much wartime service in Washington, running Lend-Lease and inevitably coming into contact with intelligence agencies. When Hiss told him he had no idea that Schmahl had played a double role, Lane insisted: "Well, I know he was a double agent. I can't tell you how I know, but I *know*. Try to think back on everything he did for you."

Thinking, however, could not prove the deed. Proof rested in FBI files, then closed to the defense but forced open now through Freedom of Information actions. These documents reveal that Schmahl had been an undercover agent for U.S. intelligence agencies in various capacities for 20 years and that,

Chambers, who had sworn Hiss had never been a spy, declared Hiss had always been a spy.



for more than two years, he regularly informed the FBI of everything he learned about the Hiss defense.

Schmahl was born Horst W. Schmahl in Dusseldorf, Germany, on June 28, 1908. He came to the United States in August, 1929; served for a time as a deputy sheriff in Nassau County, Long Island; then went into private detective—and undercover—work.

The FBI teletypes so far released trace Schmahl's dual role in the Hiss case almost from beginning to end. A memo from the FBI bureau in Philadelphia on December 7, 1948, reported that Schmahl had telephoned Martin, Fansler's former insurance partner, trying to locate samples of typing done on the old Woodstock. Schmahl is quoted as telling Martin he was cooperating with federal authorities and advising Martin to do the same.

There was nothing at the time especially suspicious in this, for Hiss and his attorney were also cooperating with the FBI, apparently in the belief that an impartial investigation would establish Hiss' innocence. For it was on this same December 7 that McLean turned over to the New York FBI some vital evidence later to be used against Hiss—three letters that Priscilla Hiss had typed on the old Woodstock in the 1930s.

A teletype from the New York office to Director J. Edgar Hoover that same afternoon disclosed that Schmahl had been in touch with the FBI and "desired to know if he should furnish any information he might obtain" when he talked to Martin in person the next day. Schmahl was advised, the memo says, that the FBI always conducted its own independent investigations and that he was not to give the impression he was representing the bureau in any way. The message added that, when McLean and Priscilla Hiss visited the FBI office later in the day, McLean "was informed of Mr. Schmahl's telephone [call] and request." This cryptic reference does not make clear just what McLean, who is now dead, was told about Schmahl's offer to tell the bureau all he learned.

"Of course," Hiss says now, "up to the date of the indictment on December 15, there would have been no objection to Schmahl's talking to the FBI if he could learn anything from them. But after that he should have had no contact."

The FBI files establish, however, that Schmahl's contacts were continuous, and give a picture of a detective who seems hardly to have been dedicated to the cause of his client. Typical is a teletype from the Philadelphia bureau on December 8, reporting Schmahl's questioning of Martin in the presence of Martin's attorney. It said:

"Martin and his attorney both gained the impression from Schmahl that there is doubt in his mind as to Hiss' innocence since Schmahl told them that

Hiss' story concerning the typewriter and 'several other points' has been found to be inaccurate. . . . Schmahl did state that if Hiss were proven wrong on 'one more thing' his firm would withdraw from the case."

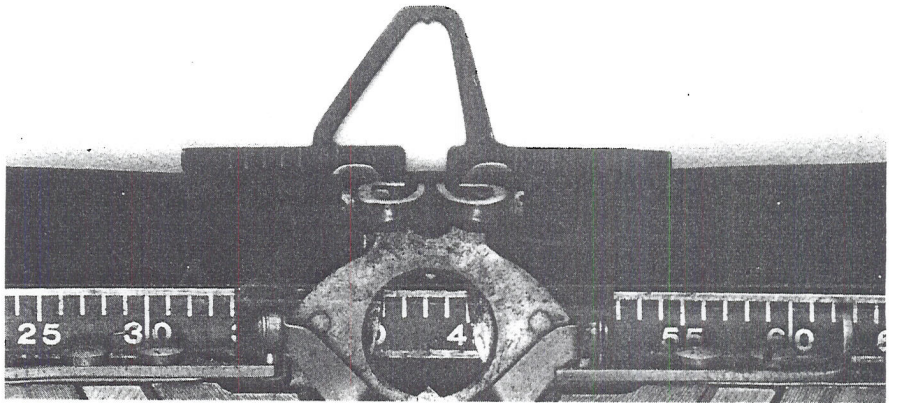
This attitude, even at this late date, comes as news to John Broady, Schmahl's employer. "I questioned both Hiss and Chambers," Broady says, "and I thought Chambers a kook and Hiss a high-type public official. I doubted very much that Horace Schmahl would do anything to harm Alger Hiss."

That isn't what the FBI records seem to show. They reveal, for example,

dent FBI investigation: it was an authorization to make full use of the double-agent to penetrate the Hiss defense. The New York bureau responded in a teletype December 23, informing Washington that Schmahl had been interviewed by two FBI agents on December 11. Schmahl had told the agents, the teletype said, "that during the war he had worked for military intelligence" and "that for the past twenty years he has been handling international work for the Department of Justice and the U.S. Attorney's office in the Southern District of New York."

Subsequent FBI memos leave no

Woodstock N 23C,C99 would have been manufactured in the latter part of 1929—and could not possibly have been the machine in the office in 1927.



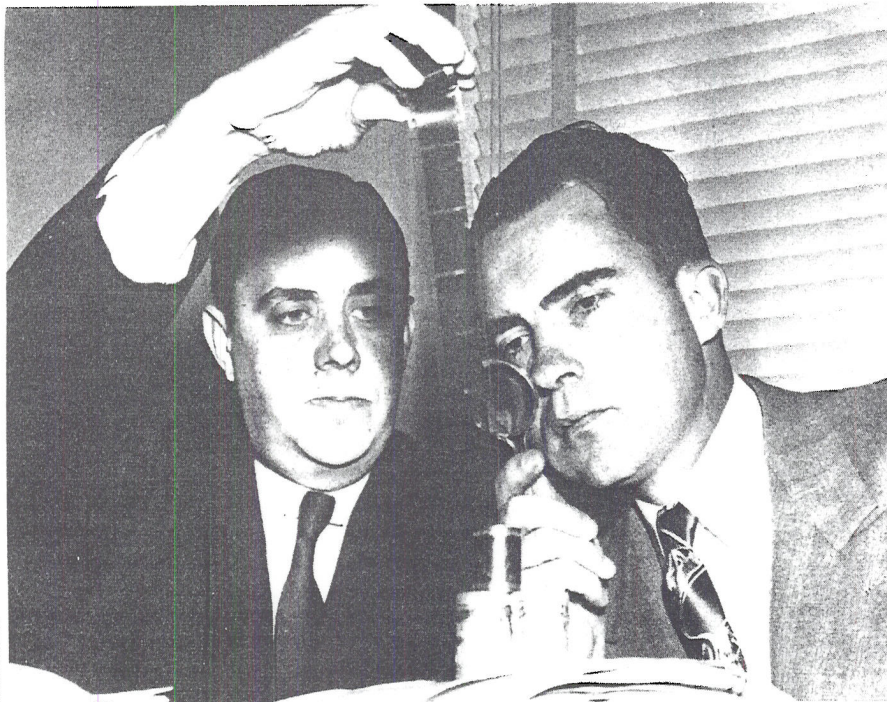
that on December 16, 1948—the day after Hiss' indictment—Schmahl turned over to the FBI information potentially embarrassing to Chambers' wife, Esther. Schmahl had learned from the Baltimore Credit Bureau that Esther Chambers had obtained credit with the help of the credit rating of another Chambers—Jay, an assistant administrator in the Treasury Department. His wife's name, however, was Anne, and Esther Chambers, questioned by the FBI, couldn't explain "the errors" in the application she had filed.

The relationship between Schmahl and the FBI now became closer. A teletype from Washington to the field on December 22, 1948, reads: "Schmahl may know where the typewriter is located. Schmahl's instructions from Hiss and Hiss' law firm would be of great interest, as well as Schmahl's observations concerning the results of his own investigation. He may have an idea as to the serial number of the typewriter, where it was disposed of, when it was disposed of, if it was repaired, etc. Suggest bureau and New York office consider advisability of immediate interview with Schmahl."

It was an authorization that abandoned all pretense of an ethical, indepen-

doubt about the continuing collaboration of Schmahl and the bureau. On November 18, 1950, the New York office reported that Schmahl, "who worked for the Hiss attorneys and subsequently furnished information on a confidential basis," had kept agents advised about Hiss' appeal strategy. It added: "As previously stated, Schmahl will keep our New York Office advised of any pertinent developments."

Enter now more ghosts from the underground of espionage and double agents. The Central Intelligence Agency has admitted to Hiss' attorneys that it possesses a large file on Schmahl, but it has fought disclosure on the hoary old grounds of "national security." It did on one occasion deluge the Hiss defense with hundreds of pages of reports dealing with Schmahl's possible involvement in the March 12, 1956, kidnaping of Dr. Jesus de Galindez, a Columbia University instructor and the foe of the Dominican dictator, Rafael Leonidas Trujillo Molina. The reports had nothing to do with the Hiss case, but they did confirm that Schmahl had worked for the office of military intelligence and the Office of Strategic Services (the World War II spy forerunner of CIA). The CIA furnished Hiss attorneys with a "partial invento-



WIDE WORLD

**Pumpkin Surprise: Rep. Richard M. Nixon (right) prepares for his Senate race**

ry" of other documents relating to Schmahl, and a court battle is now going on to force full disclosure.

It could be a pivotal battle because the little that has seeped out from under the official rug contains some tantalizing clues. A confidential memo from the Assistant Chief of Staff, G-2, Headquarters for the Second Army on Governor's Island during World War II, reveals that Schmahl had come under suspicion as a possible Nazi sympathizer. The memo, dated February 7, 1941, said that Schmahl "strenuously denies" these charges though admitting to an acquaintance with Fritz Kuhn, the German-American Bund leader, and Adam Kunze, an avowed pro-Nazi and, significantly perhaps, a genius at constructing and repairing typewriters.

With Horace Schmahl and Adam Kunze, one begins to get at what well may be the heart of the continuing Hiss case—the mystery of the double agent and the mystery of the typewriter. The Hiss defense, after giving the FBI samples of Priscilla Hiss' typing, tried to find the old Woodstock. The FBI, naturally, was hunting for the same machine.

It should have been an uneven contest. The FBI had some 35 agents combing Washington, and other agents in field offices across the country tracking down clues to the identity of the elusive typewriter. Yet the Hisses, amateurs in the detective business, found it. Or at least found a machine.

The Woodstock that they finally traced through their former servants, the Catletts, bore the serial number N-230,099. Hiss and his attorneys had anticipated that the typing done on the machine would disprove Chambers' charges; and they were apparently

stunned when document experts told them that the typing matched that of the Baltimore documents and the original letters typed by Priscilla Hiss in the thirties.

Professor Allen Weinstein, who secured the first release of FBI documents under a Freedom of Information action, is now preparing a book that, he indicates, will attempt to prove Hiss guilty. Weinstein has charged that Hiss lied when asked by the FBI and the grand jury what had become of the typewriter. Hiss had already suggested to his attorneys that it might have been disposed of to the Catletts, but he told the prosecutors he had no independent recollection of what had become of it. This may well have been the literal truth. Hiss in his own book, *In the Court of Public Opinion*, wrote that he did not know what had become of the Woodstock, but that his stepson, Timothy Hobson, suggested in a family conference that the Catletts might have it. Hiss passed this tip on to his lawyers before he testified before the grand jury, but he was hardly under any obligation to be more than literally truthful to the federal bloodhounds who were by then obviously baying on his trail.

In any event, the Woodstock was not easily found. Donald Hiss, Alger's brother, and his associates had a difficult time with the Catletts. It is a labyrinthine tale, filled with indications that FBI agents (as would be logical) had already questioned anyone who might have had possession of the machine. When Chester Lane became suspicious about the Woodstock, he tried to backtrack on the manner in which it literally fell into the hands of the defense. He found a maze of conflicting and contradictory stories. One time the Hisses were told the ma-

chine was "sitting right there" on a table in the home of a mover named Ira Lockey—only it wasn't; another time, it was supposed to be in a closet—only it wasn't. Mike Catlett, who was helping in the search, claimed he had seen FBI agents at Lockey's place and wouldn't go near it. As for Lockey, he refused to talk, then he professed to know nothing—and then, suddenly (and only when Hiss' attorneys accompanied Catlett to his house) Lockey produced Woodstock N 230,099 like a magician pulling a rabbit out of a hat.

The defense offered the Woodstock in evidence during the Hiss trials, the second of which, in early 1950, ended in Hiss' conviction for perjury. The prosecution called the documents and the Woodstock (which the defense had produced but which sat in court like an accusing prosecution exhibit) "the immutable witnesses" to the crime it said Alger Hiss had committed.

Yet the government must have known, as laymen and even Hiss' trial counsel did not, that the witnesses were anything but "immutable." At the heart of the government's case lay a spurious contention—that the typing of each individual typewriter has identifiable characteristics that make it as distinctive as the human fingerprint. Hence the Hiss defense, having accepted Woodstock N-230,099 as the original Hiss machine and having been told by its own document experts as well as those of the FBI that its typing matched that of the Baltimore documents, was boxed into a position in which it had no rational explanation to support its claim of innocence.

The defense could not know that the government's typewriter-fingerprint analogy was fraudulent. But the FBI and the government must have known, for forgery by typewriter had been practiced with great and startling success by the clandestine services in World War II. The British Secret Service, with which the FBI maintained close liaison, had on one occasion fabricated a document with such skill—duplicating paper, ribbon, ink, typing and official letterhead—that it was accepted by the pro-Nazi Vargas government of Brazil as evidence of Nazi plotting against Vargas. And so it changed Brazil's entire policy toward the Axis powers.

By comparison, the forgery of documents Chambers produced in Baltimore and tagged to Hiss would have been as easy as embellishing a fairy story for some wide-eyed, credulous kid. But was this, in fact, the case?

The question was never raised until Chester Lane, convinced of Hiss' innocence on the espionage charge, honed in on the mystery of the Woodstock and the possibility of forgery by typewriter. He took two approaches. He tried to find out from the Woodstock factory in Woodstock, Illinois, when a machine

bearing serial number N 230,099 would have been manufactured; and he hired Martin K. Tytell, a typewriter expert, to manufacture a machine that would duplicate the typing of the Baltimore documents.

Joseph Schmitt, plant manager at Woodstock, gave Lane's investigator one important clue. The type used on the machine produced in court, he said, could not have been used on a machine with the serial number N 230,099. Such a machine would have been manufactured in August or September, 1929, but the kind of type on N 230,099 had been discontinued at the end of 1928. Schmitt added without elaboration that his company "had helped the FBI find the typewriter in the Hiss case"—just one of many assertions, including some by Richard Nixon himself, that either the FBI or the House Un-American Activities Committee had "found" the typewriter they were never supposed to have had in their possession.

Lane, in arguing the appeal, told the court that he had been blocked at every turn by the FBI when his research turned to the sensitive issue of the typewriter. When he sought records, the FBI would not give them up; when he tried to interview witnesses like Schmitt, his agents encountered FBI surveillance, and FBI pressure sealed lips so that potential witnesses refused to sign affidavits.

Now, as a result of the Freedom of Information actions, the FBI has been forced to cough up some of the evidence it withheld from Hiss during his trials and appeal. One revealing FBI report from the Philadelphia office on December 23, 1948, summarized what had been learned by questioning and re-questioning all sources. It pointed out that no exact record of serial numbers had been kept by the Woodstock company, but it added that a "trade-in manual for the use of dealers" listed the approximate serial numbers for each year. According to this manual, Woodstocks coming off the line at the beginning of 1929 started with the serial number 204,000; in 1930, the starting number was 240,000.

In other words, Woodstock N-230,099 would have been manufactured in the latter part of 1929, as Schmitt had told Lane's investigator—and could not possibly have been the machine in the Fansler-Martin insurance office in 1927. About that 1927 date for the purchase of the Fansler machine there could be little doubt, for the FBI added:

"In view of the fact that Thomas Grady, the salesman who sold the Woodstock typewriter to the Fansler-Martin partnership, resigned on December 3, 1927, it would appear, therefore, that the serial number of the typewriter sold to Fansler-Martin would be less than 177,000."

After the Hisses found N-

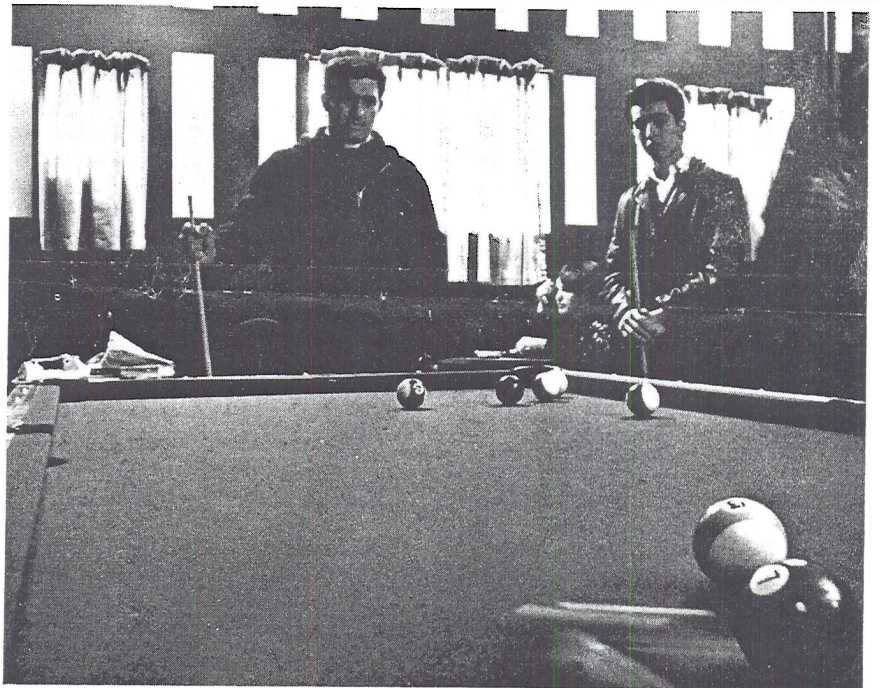
230,099, FBI bureaus all over the country thrashed around to determine whether they had erred in their original investigation. All that this frantic re-examination produced, the documents show, was a confirmation of the original data. The Chicago office on May 20, 1949, sent FBI Director Hoover a list of serial numbers furnished by Joseph Schmitt, "indicating the various serial numbers being used at the times technical changes were made in Woodstock typewriters." Schmitt vowed for the accuracy of the list, the Chicago office reported, and it showed that a highly significant change-over had been made in March, 1929. That was when machines labeled "New Style Action" were first produced, starting with serial number 220,000.

This was the reason, it now becomes apparent, that Schmitt could have been so positive in telling Lane's investigator that 230,099 could not have been manufactured before August or September, 1929. Yet the FBI's re-investigation

showed that the Fansler-Martin machine was purchased in 1927. Salesman Grady was re-interviewed in Milwaukee and insisted "that he could not have sold this typewriter [N 230,099] as he sold no typewriters subsequent to leaving the employ of Woodstock in December, 1927."

The evidence now dragged out of the FBI files seems conclusive. The Woodstock machine produced in court was a phony, not the original Fansler-Martin machine, and the inescapable conclusion is that it was planted on the Hisses with the deliberate intention of wrecking the defense, a tactic that succeeded brilliantly. The corollary is that the FBI, by the time of the trials at least, was fully aware of this fact, as its own internal memoranda show, but it kept this vital exculpatory data from the defense until recently compelled to unburden itself.

The FBI's sensitivity to the typewriter issue and its collaboration, either



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## The Claretians

A Roman Catholic community of priests and brothers

by quiet acquiescence or active participation, in a plot to frame Alger Hiss has long been apparent to me. I had originally, like most Americans at the time, considered Hiss guilty as sin. It was a conviction based upon those *documents* Chambers had produced. Documents couldn't be refuted, could they?

Then Carey McWilliams, editor of *The Nation*, persuaded me to examine the record in the Hiss case, and I found myself unable to swallow Whittaker Chambers' changing and conflicting accounts under oath. Especially incredible was his version of his break with Communism. He pictured it in *Witness* as a life-shattering experience, a time so traumatic that he lived in terror of retribution and slept with a gun at his side. There should have been, it would seem, no doubt in a man's mind about just when he had undergone such an ordeal; and in Chambers' case, in nearly a dozen recitals, there had been no doubt. He had invariably fixed the year of his break with Communism as 1937. But the documents he had so suddenly and dramatically produced were dated in 1938—the last of them April 1, 1938. If his unwavering recollection through the years had been correct, then he could not have gotten the documents from Hiss and they had to be forgeries; and so, in the first Hiss trial—after several queasy shifts of the date of his break—Chambers settled upon a positive date, April 15, 1938, one that, at least, would not do violence to the dates on the documents he had produced.

This highly suspect sequence, Chester Lane's research into the origin of N 230,099, his success in having Martin Tytell build a Woodstock that duplicated the typing of the documents—all of this and much else convinced me that the government's case against Hiss reeked with a rotten odor. So I wrote a long article for *The Nation*, and in 1958 expanded the article into a book, *The Unfinished Story of Alger Hiss*. Then strange things began to happen.

I was sitting at my rewrite desk in the old New York *World-Telegram & Sun* on March 25, 1958, when I received a telephone call from John Willey, my editor at William Morrow. He sounded worried.

"Fred," he said, as I recall, "we have been warned by a very old and very trusted friend of the firm that we have a bad one in your book, and we will look foolish if we publish it."

Completely taken aback, I asked John who had made such a charge. He couldn't tell me, he said, but Morrow regarded it as a very serious matter. Could we have lunch together that very day?

A few hours later, an extremely worried editor and an equally concerned writer sat down to lunch; I asked John Willey to spell out the details of the charges that had been leveled against my

forthcoming book.

"I can't tell you who this comes from," he began. "You will just have to take my word for it that it comes from a very old and very trusted friend of the firm, a man whose integrity is beyond question and whom we trust completely. That's why we are so worried.

"Now, our friend tells us this: He knows a private investigator who says he was hired by a law firm, not the present Hiss law firm, to help investigate the case. In the course of his work, he obtained photostats of the typing produced by the Tytell machine, and the typing does not match that of the documents at all. Any expert could detect the fraud in a minute, and we will look extremely

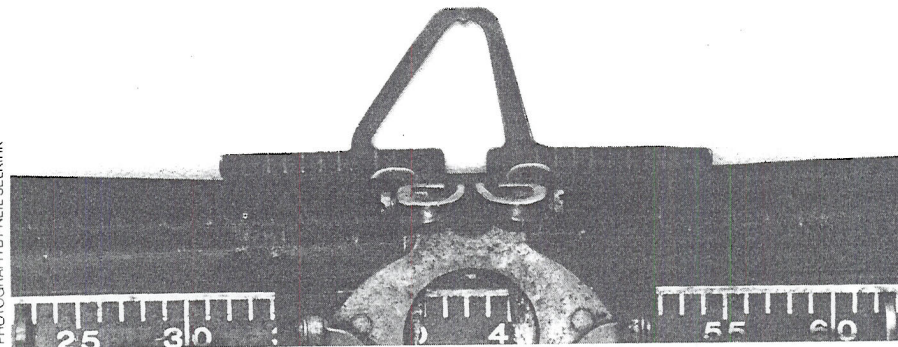
perts insist on working from originals because there is too much loss of detail in a photostat.

"In addition to all this, the Hiss defense had given up on private detectives before the Tytell machine was made. Information about this was tightly held in their own office, and no private detective could possibly have had photostats of the typing."

I told John I was certain of these facts, but I would check with Mrs. Helen Bittenwieser, Chester Lane's law partner, and write him a letter confirming what I had told him. We parted, and I started back to the newspaper office.

As I walked, I puzzled over John's startled reaction when I men-

The forgery of documents Chambers produced in Baltimore and tagged to Hiss would have been as easy as embellishing a fairy story for some wide-eyed, credulous kid.



PHOTOGRAPH BY NEIL SELKIRK

foolish if we publish your book."

I was taken aback—and quite amazed at the effrontery of a maneuver that had some transparent flaws.

"Look, John," I said, "two things strike me about this right off the bat. In the first place, the Hiss defense quickly discovered that they could not trust private investigators. Everyone they tried appeared to be hooked directly into the FBI; and whenever they sought a particular piece of information they found that the FBI, obviously tipped off, had gotten there just one step ahead of them. For instance, they employed Ray Schindler at one point early in the investigation; his bills were so huge that he almost bankrupted the law firm—and then he refused to sign an affidavit about what he had done for them."

When I mentioned Schindler's name, John Willey started as if some ghostly courtesan had jabbed him with her 1890s hatpin. I noted the reaction, but I was too busy spelling out the facts to pay any more attention to it at the time.

"The second point, John," I went on, "is that no expert worthy of the name will put his reputation on the line on the basis of photostats. Document ex-

tioned the name of Ray Schindler. Then the truth hit me. Schindler and Erle Stanley Gardner, the creator of Perry Mason, and for years one of Morrow's most successful authors, were collaborators in a project called "The Court of Last Resort," investigating cases in which justice might have gone awry and presenting their findings as a regular feature of *Argosy* magazine.

The following morning, after Mrs. Bittenwieser had confirmed everything I had told John and had extended an invitation to Morrow to examine all the correspondence and records if they wished, I wrote John Willey a letter (I still have a copy preserved on old newsroom copy paper) that began: "If I am right, the report that you discussed with me yesterday was written by Raymond Schindler and came to you through Schindler's Court of Last Resort buddy, Erle Stanley Gardner."

After John Willey had read the two-page letter, he telephoned me. "Fred," he said, "that was an interesting letter you wrote. A very interesting letter."

He chuckled and I chuckled—and Morrow went ahead with the book.

I had predicted in the last line of

my letter that the devious Schindler-Gardner maneuver would probably turn out to be only the first endeavor of the kind. And I was right.

Just before publication, I received a telephone call from a writer unknown to me. He said he had published an article on one phase of the Hiss case, and he wanted to have lunch with me and tell me about his experiences. A check showed that he had, indeed, written the article he mentioned, and so I agreed to see him.

He turned out to be a short, stocky man, wearing a black beret and with a jaunty, foreign-agent air about him. Over lunch, his friendly, solicitous questions seemed to focus on two major points: Just what had impelled me to write the Hiss book? And would I please be careful when the book was published? His magazine article had brought him such a barrage of vile abuse, he said, that he just couldn't imagine what I would be in for when I published a book. I had a family, didn't I? Yes, a wife, son and daughter, all living at home. Well, it was going to be just terrible for them, he said. There would be telephone calls at all hours of the night. Denunciations. Obscenities. Perhaps I should have my phone unlisted.

No, I told him; I wouldn't. I had written the Hiss book as an act of conscience, convinced the case was as bad as the famous French Dreyfus case; and I intended to play it straight and see what happened.

Nothing did. The book was published, died quietly in the hostile atmosphere of the 1950s, and I received not one abusive call. The effect, of course, was to convince me of the accuracy of the conclusions I had reached; for, if a case is valid, there is no need for such obviously inspired, Machiavellian maneuvers designed to kill off a book that questions it.

This conviction has been reinforced by a series of developments through the years. The thrust of all is in just one direction: time and again, those closest to the prosecution, those in the best position to know, have made the same assertion—that the government, either the FBI or agents of the House Un-American Activities Committee, found the typewriter before mysterious Woodstock N 230,099 turned up in the possession of the Hisses.

John Dean in his recent book, *Blind Ambition*, made the latest contribution in the chain. According to Dean, Nixon and his special counsel, Charles Colson, were discussing the Dita Beard memo, which referred to a commitment by the International Telephone & Telegraph Company to contribute \$400,000 to the 1972 Republican campaign. Nixon was anxious to prove the memo a forgery:

“The typewriters are always the

key,” the president told Chuck. “We built one in the Hiss case.”

He did not identify the “we,” but in earlier discussions with aides during the Watergate crisis he had asserted that he had conducted the Hiss investigation with just two House committee aides, and he had added: “We got it done . . . We then got the evidence, we got the typewriter, we got the Pumpkin Papers. We got all that ourselves. The FBI did not cooperate.”

Colson has said he can't remember the conversation Dean quotes, but Dean's gift of total recall is well-established—and, in addition, Nixon's remark ties in with a number of other similar slips over the years.

In an official report in 1951, the House Un-American Activities Committee wrote: “The committee wishes to commend the Federal Bureau of Investigation for its work in bringing this case to a successful conclusion. The location of the typewriter [a most peculiar phrasing] and certain other pieces of evidence needed during the trial of the case was amazing.”

Nixon himself, in his own book, *Six Crises*—a work to which he constantly referred in talking to his palace guard during the Watergate crisis—wrote explicitly: “On December 13, FBI agents found the typewriter. On that same day, I appeared before the Grand Jury with microfilm [of a second batch of documents that Chambers had taken from a pumpkin on his farm] . . . On December 15, the critical last day, an expert from the FBI typed exact copies of the incriminating documents on the old Woodstock machine and had them flown up to New York as exhibits for members of the Grand Jury to see . . .”

After I had called attention to this statement that swore at the very fundamentals of the government's case, Nixon became unavailable to the press. His public relations men attempted to explain that it was all just a researcher's error. The researcher had come across the clipping of a story written by Tony Smith for the Scripps-Howard newspapers on December 13, 1948. Smith reported that House investigators (not the FBI as Nixon wrote) had found the typewriter in the Hiss case. But Smith's story had contained none of the specific details that appeared in the Nixon account; and it seemed incredible then, as it does today, that Richard Nixon, the principal accuser of Hiss, could have been the victim of a “researcher's error” about a case he knew so intimately.

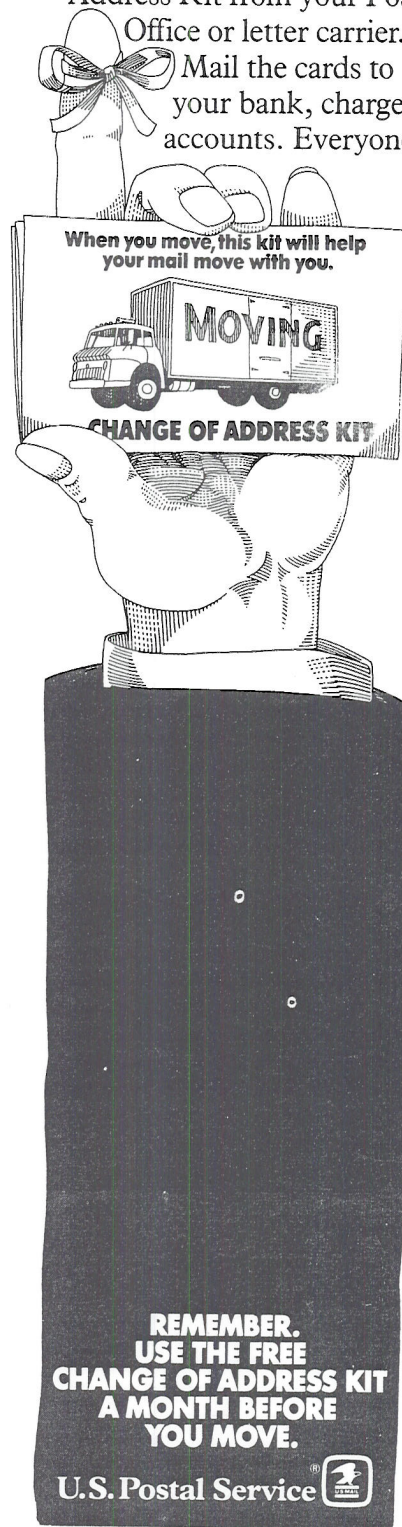
Such unconscious disclosures seem like confirmation of the clues that lurk in the FBI's tracking and re-tracking of the origin of N 230,099. Was this machine indeed fabricated and planted on Hiss to frame him for a deed he didn't commit?

That, of course, is the vital ques-

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tion, and again there is one tantalizing thread. In the mid-1960s, Harold Bret-nall—the detective who had been assigned to the Hiss case by Broady along with Schmahl—walked into the law office of Walter E. Beer, Jr. It was the office with which Chester Lane had been associated before his death.

Bret-nall, looking around, spotted the file of courtroom testimony in the Hiss case and asked one of Beer's assistants if the office had a special interest in the case. The lawyer acknowledged that it did. Then Bret-nall astonished Beer and his associates by saying: "Oh, I know all about that. Hiss was framed."

He explained that his one-time partner, Schmahl, had been a friend of Adam Kunze and that he had learned from Schmahl that Kunze had built the mysterious Woodstock. Kunze, he said, had had a typewriter business on Greenwich Street in lower Manhattan, but Kunze was dead.

True or not? Hiss' lawyers had little chance to find out. Shortly after Bret-nall talked to them, he was fatally in-

jured in an automobile accident in Westchester County. The accident, coming so soon after Bret-nall's disclosure, made Hiss' lawyers suspicious, but Bret-nall lived long enough to assure them that the accident *had* been an accident, that no foul play had been involved.

A check of old Manhattan telephone directories showed that Kunze's shop, in the late 1940s, had been located right where Bret-nall said it had been. Schmahl had moved to Fort Lauderdale, Florida, and refused to talk about the case. It was a dead end except for one other intriguing item. When Martin Ty-tell began to scrounge around typewriter shops hunting old Woodstock type with which to fabricate the machine he made for Chester Lane, where did he obtain a lot of this rare, out-of-date type? In the shop of Adam Kunze.

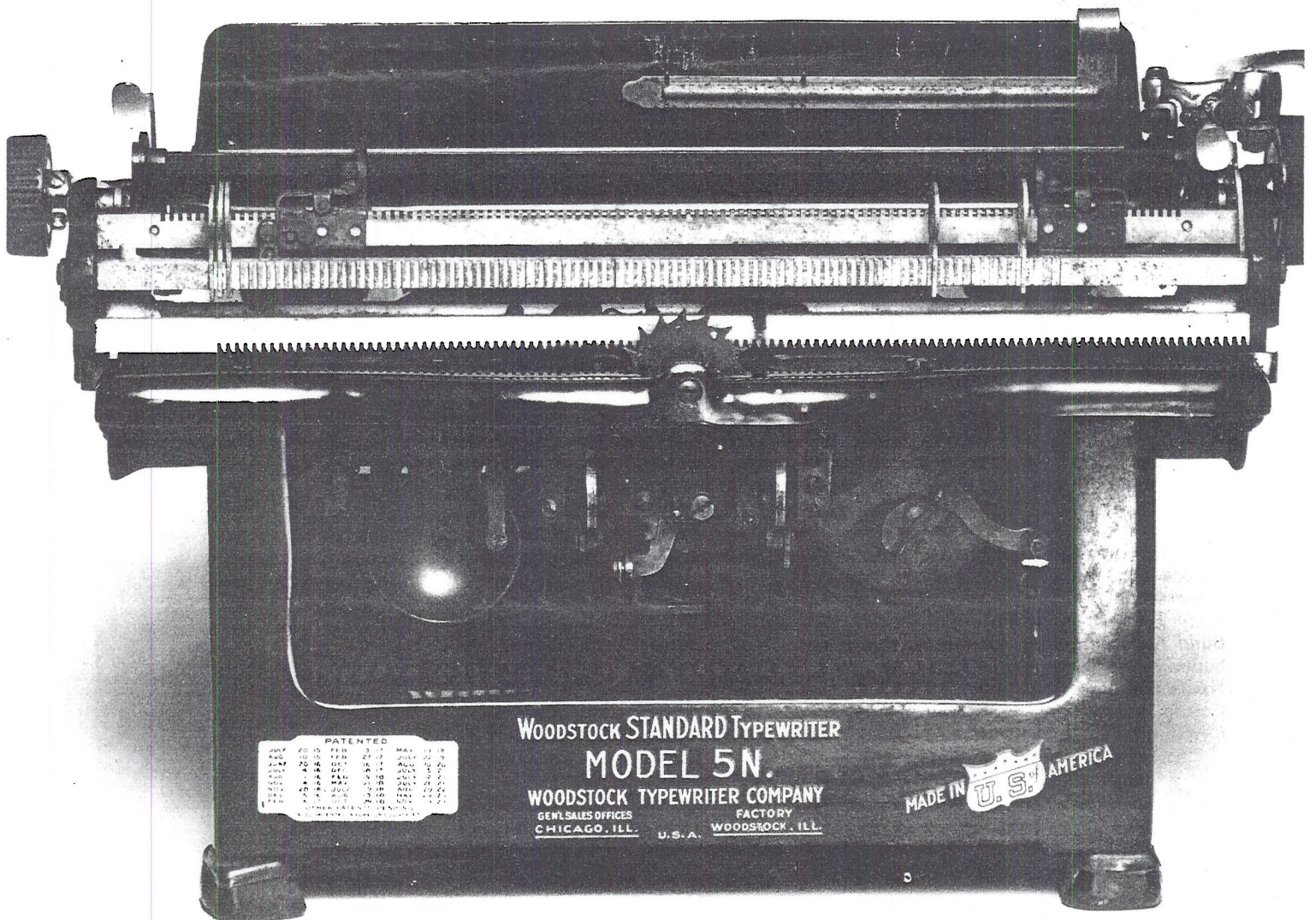
There, at the moment, is where it rests. Hiss and his lawyers are still battling the FBI and CIA in the courts in an effort to find out what may still lurk undisclosed in the secret files. The govern-

ment is resisting every step of the way.

"Under the Freedom of Information Act," Hiss says, "you are supposed to be able to get the information in the files in twenty days. We've been battling for twenty months. The CIA has given us a partial inventory of the material they have on Schmahl, and it refuses to say what else it may have. We want a full inventory.

"The FBI has given us 'summaries' of reports from its regional offices and argues that it believes everything of significance was sent to headquarters. But we are going into court to try to get the basic information to which we think we are entitled."

Such preliminary legal skirmishes are delaying the filing of Hiss's *coram nobis* action, and the vigor with which the government is fighting in the cause of delay adds one final note of suspicion to a case riddled with suspicious circumstances. If the case against Alger Hiss was a valid case, why the resistance? Why not open the files, put it all on the line, and let it all hang out? ●





## The true grit of Alger Hiss

Alger Hiss, at long last, is an angry man.

In the almost 20 years that I have known him, Hiss, gentle and soft-spoken, seemed to take an almost dispassionate view of his own case. Though he insisted on his innocence and continued stubbornly to try to prove it, the fury that might be expected in him seemed lacking. But now his voice quivers as he discusses new discoveries about the duplicitous role the late J. Edgar Hoover played in his case.

"I never felt angry at anyone until I began to go through the documents we are now getting from the FBI under the Freedom of Information Act," Hiss said in a soft voice, sitting in the New York office of the National Emergency Civil Liberties Committee.

"I never felt bitter or vindictive toward Whittaker Chambers because I considered him of unsound mind, and it was difficult to get steamed up about him. I didn't even feel particularly bitter about Richard Nixon; he was just a cheap, opportunistic politician. But Hoover was supposed to be the head of an impartial investigating agency, and the documents we are getting show that he played a partisan role throughout. He issued specific instructions: 'Get evidence to support what Chambers has to say.' And again, when there was a chance the grand jury might indict Chambers for perjury instead of me, Hoover issued instructions: 'Forget Chambers. Get Hiss.'

Obtaining such information hasn't been easy. Hiss' attorneys, K. Randlett Walster and Victor Rabinowitz, have been tied up in court for nearly two-and-a-half years while the "New FBI" of Clarence Kelley and the U.S. Department of Justice have fought every attempt to uncover what might be hidden in their files.

They contended that "all relevant" material had been sent to FBI headquarters in Washington. Hiss' attorneys argued they should have the right to determine what was "relevant," and they wanted to see the material in bureau files in New York, Boston and Philadelphia. The New York bureau was the key because its agents were the ones who questioned and coached Chambers in preparing the case for trial.

The FBI at first insisted that there were no additional documents in the New York FBI office. But after three months of legal haggling, the government at last threw up its hands and said in effect: "All right. There are 60,000 pages of reports in the New York office. You can have them."

"You have to keep going into

court," says Hiss. "You have to keep pressing until they finally reach a place where there is nowhere else to go. But all of this is terribly time-consuming and terribly expensive.

"I think they probably have two motives in all of this. The longer the case is dragged out, the more they hope you will become discouraged. And then, if I die, the case is dead; there is no way my heirs could fight it. I'll be 73 next month, and the actuarial tables are on their side."

In financing this long and costly delaying battle, Hiss has had the help of a dedicated band of volunteers, and has gone on the lecture circuit to raise funds. He spoke at 15 colleges this year at \$2,500 per appearance, and the whole amount has gone to finance the legal effort.

As this issue of *New Times* goes to press, Hiss' aides are just beginning to search through the first batch of those 60,000 supposedly nonexistent documents. Two early discoveries seem to demonstrate that the government's case against Hiss was built on



quicksand—and that the FBI knew it.

The first was a telex from the New York bureau, dated January 14, 1949 (after Hiss's indictment and while the case was being prepared for trial) in response to a query from Leo Laughlin in the Washington headquarters, questioned information sent the day before. It reads: "He [Laughlin] stated that the Director had questioned whether the name of Donald Hiss [Alger's brother] should have been included in the group Chambers claimed was operating under Harold Ware [a Communist cell leader]. I advised him, after checking with S[pecial] A[gent] Thomas Spencer, who was at that moment interviewing Chambers, that the teletype as sent was correct; that Donald Hiss was, according to Chambers, in the group. I also advised that he [Chambers] had not put Alger Hiss in the group because he was not sure Alger Hiss was in the group. Consequently, no statement was made regarding Alger Hiss."

This should have been a shock to Hoover because the charge that Hiss had been a Communist was founded upon Chambers' sworn testimony before congressional committees and the federal grand jury that Alger Hiss had belonged to a Washington Communist cell headed by Ware in the 1930s.

A second discovery in the New York files is even more damaging. The New York FBI bureau on February 2, 1949, drafted a long pre-trial scenario, outlining the evidence needed to convict Hiss and discussing how it should be handled. A section labeled "Documentary Evidence" dealt with the core of the case—the 69 pages of typed documents Chambers had claimed under oath that Hiss had brought home from the State Department to be copied by his wife.

Discussing these documents, the New York bureau included a parenthetical jarring note: "It is not clear at this time if Chambers can testify that he received these particular 69 documents from Hiss, but upon establishing the facts of this situation, decision can

be thereafter reached as to who is in a position to introduce these documents."

Chambers, of course, had testified that he got all these documents from Hiss, but now he was waffling. In the end, he was brought up to scratch and testified in the trial as he had previously that the documents came from Hiss. Only the FBI knew how uncertain and unreliable this testimony was.

Summing up, Hiss declares: "We can now show that basic elements of the government's case were tainted by non-disclosure of evidence vital to the defense and by misleading tactics—or worse. There are not many cases in which you can demonstrate malfeasance on the part of the government and we couldn't, except for the material we are obtaining under the Freedom of Information Act. But now we can, and now we have the grounds for the *coram nobis* action we hope to file by the end of November." —F.C.