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ENCLOSURE

Kisseloff-23259

# MR. ACHESON'S STRONG STAND FOR HISS

## Republican Senators Threaten Reprisals

From Alistair Cooke.

NEW YORK, JANUARY 26.

The Senate and the House of Representatives were thrown into a momentary uproar yesterday a few minutes of the Secretary of State, Mr. Dean Acheson, had told a flabbergasted press conference that even if the United States Supreme Court upheld the conviction of Alger Hiss, "I do not intend to turn my back on him."

Mr. Acheson had been going along answering questions on foreign policy when one reporter asked him if he wished to comment on the verdict of guilty brought by a New York jury against Alger Hiss, the former State Department officer, who is implicitly convicted of having passed confidential Government papers to a Communist spy ring in Washington twelve years ago. One reporter said that not since Westbrook Pegler stood up at Philadelphia eighteen months ago and asked Henry Wallace if he had written the "Guru letters" had a press conference ever bristled with a more eloquent silence.

Mr. Acheson is said to have flushed, paused, and successfully restrained a wave of extreme anger. He said:

"Mr. Hiss's case is before the Courts, and I think it would be highly improper for me to discuss the legal aspects of the case or the evidence or anything to do with the case."

The pressmen burrowed deep in their notebooks and decided that was that. But Mr. Acheson went on:

"I take it the purpose of your question was to bring something other than that out of me. I should like to make it clear to you that whatever the outcome of any appeal which Mr. Hiss or his lawyer may take in this case, I do not intend to turn my back on Alger Hiss. I think every person who has known Alger Hiss or has served with him at any time has upon his conscience the very serious task of deciding what his attitude is and what his conduct should be. That must be done by each person in the light of his own standards and his own principles.

"For me, there is very little doubt about those standards or those principles. I think they were stated for us a very long time ago. They were stated on the Mount of Olives and if you are interested in seeking them you will find them in the 25th chapter of the Gospel according to St. Matthew, beginning at verse 34."

### A BIBLE PRODUCED

Mr. Acheson's press officer had brought along a Bible for the help of the heathen press and the newsmen quickly scribbled down the passages, which go as follows:

For I was an hungered and ye gave me meat: I was thirsty and ye gave me drink: I was a stranger, and ye took me in.

Naked and ye clothed me: I was sick and ye visited me: I was in prison, and ye came unto me.

Then shall the righteous answer him, saying, Lord, when saw we thee an hungered and fed thee? Or thirsty and gave thee drink:

When saw we thee a stranger, and took thee in? or naked and clothed thee?

Or when saw we thee sick, or in prison, and came unto thee?

And the king shall answer and say unto

them, "Verily I say unto you, inasmuch as ye have done it unto one of the least of these my brethren ye have done it unto me."

Mr. Acheson, as the son of an Episcopalian bishop, is fond of quoting Scripture. But it was passion more than elegance that impelled him yesterday to defend a man about whom, when he was questioned last year by a Foreign Relations Committee considering his confirmation as Secretary of State, he replied: "My friendship is not easily given and not easily withdrawn."

### SENATORS' COMMENTS

Most reporters could hardly wait through the following policy questions to get a telephone line to Capitol Hill. When they were released they leaped at the phones and the word got to the Senate while Senator Karl Mundt, formerly a member of the House Committee on Un-American Activities, was taking the floor to castigate Alger Hiss.

Republican Senators bridled and choked as the Democrats, many of whom have political futures to insure come November, stayed silent. Senator Mundt had been demanding a further investigation into "the impact and influence" of Hiss and his associates on present American foreign policy, urging his party to take on more responsibility for foreign policy, lauding the vindication of the House Committee's hunt for un-Americans. He took one look at Secretary Acheson's comment and remarked: "It could have been issued only by poor, befuddled Dean Acheson. It demonstrates the peculiar capacity Alger Hiss has for working his way into the confidence of people in high places."

Senator Knowland of California, the lost leader of the abandoned Formosa campaign, threatened, as a member of the Senate's Appropriation Committee, to move "to withhold all State Department appropriations until we get information from the department on what influence Alger Hiss had on appointments"—a move that is being made much of by anti-Administration papers to-day.

Senator Capehart, of Indiana, again demanded the resignation of Secretary Acheson for "violating his sacred oath of office and showing contempt for the laws of the land," and announced that he was "more proud than ever" that he had voted against Mr. Acheson's confirmations as Secretary of State.

In the House, Representative Richard Nixon, who more than any other member of that House Committee pressed for the indictment of Hiss, was thrown into high choler, and on dull days he is a choleric man. Mr. Acheson's statement, he said, "is disgusting, and I believe the American people will think so, too."

Among other things, it only goes to show that the isolation of a Cabinet Minister, especially a Secretary of State, from Kisseloff-23260—a quirk of the American system that English statesmen regularly deplore—has its compensations in allowing for an independent stand on such important things as personal loyalty. Not a single Democrat, of the 54 glowering there yesterday in the Senate, felt free or secure enough to echo Mr. Acheson's remarkable testament.

## Alger Hiss

It must be very rare, in a case of the importance of Alger Hiss's, for so much doubt about what really happened to remain after two protracted hearings. The first jury which heard the case disagreed; the second took nearly twenty-four hours to reach their verdict of guilty. But reach it they did; and whatever sympathy one may feel for Hiss—and many people, still unconvinced, will feel the deepest sympathy for him and for Mrs. Hiss, too—the verdict must stand, unless it is set aside on appeal or unless, as Hiss still hopes, “In the future all the facts will be brought out to show how Whittaker Chambers was able to carry out “forgery by typewriter.” (He sees that the typewriter was a more effective witness than Chambers. It could not be cross-examined.) And on the jury's verdict the judge was right to sentence Hiss to imprisonment: the offence of which he was convicted calls for no less, and it must be remembered that the statute of limitations prevents a consequential charge of espionage. But if it has left much that is obscure about Hiss the trial has thrown a flood of light on other people. The evidence of Chambers and Wadleigh has shown clearly enough the shamelessness and duplicity into which a convert to Communism, however well-meaning at the start, can be induced to fall. It is like a moral dry-rot; once it is in the house you never know where it will stop. One hopes, at the same time, that the trial will not be the signal for a campaign of indiscriminate “Red-baiting” such as some American politicians are always ready to set on foot. That is just slamming the door after the horse has been stolen—and slamming it, probably, on the finger of some quite innocent and honourable man who, whatever his links with the Left, has never sold his soul to the Communists and is in no position to sell them secrets if he had.

# FINAL SCENES IN THE HISS TRIAL

## Jury's Request for a Repetition of Evidence

From Alistair Cooke

[The following is the concluding part of our message on the passing of verdict in the Hiss trial.]

The jury went out and sent a note to the Judge nearly two hours later. They wanted to hear again the testimony of Mrs. Hiss, the Catletts; Julian Wadleigh, and about the Peterboro trip, and they wanted to have all the samples of the typewriter's work. The Judge brought them in and explained to them kindly that it would take the stenographer about five days to read what they had asked for.

Jauntily they agreed that was a tall order and jauntily they retired to reframe their question. A half-hour later they were back to ask for the Catletts' evidence on when they got the typewriter, Mrs. Hiss on when she disposed of it, and all the typewritten documents. The Judge accordingly told off two court reporters to take turns in reading, which they did for precisely one hour. This could not be done, however, until the two teams of lawyers had spent a couple of hours agreeing on the relevant testimony to isolate.

The jury meanwhile trooped off to dinner in the custody of a marshal, sworn by the clerk "to keep the jurors empanelled and sworn in this cause together in some private and convenient place without meat and drink except water." This oath is, however, another of the innumerable brave relics of the English trial system and is not binding on the marshal at meal times.

### THE LONG WAIT

The jury, then, went off to dinner, the lawyers sweated over transcript, the Hisses ate and dawdled over crossword puzzles in the chamber assigned to them. At 8:15 the jury came in, sat down and the courtroom coughed and dozed and glared through the long reading. Then the jury went off again and at 10:30 was ordered to go to a hotel and reassemble at ten to-day.

This morning they sent another note to the Judge asking him to repeat his charge that concerned reasonable doubt, and corroborative evidence. He did so, but the defence bridled at two omissions he made. He left out a sentence saying "evidence of good character may in itself create a reasonable doubt where, without such evidence, no reasonable doubt would exist." And in explaining corroboration he ended by rereading his version of the Government's contention, which says the affair was carried on in great secrecy to avoid detection and "the Government urges that facts and circumstances have been proved which, it says, fully substantiate the testimony of Mr. Chambers."

He did not read the next and last sentence of that paragraph: "This is an issue to be determined by you." The defence fumed in the chambers afterwards but Judge Goddard was calmly convinced he had covered the points properly.

By now the courtroom and its flanking corridors were beginning to take on the appearance and habits of a long siege. The lawyers unbent and talked wryly with the press and friends come to watch the triumph. A messenger in a windbreaker shuttled between the corridor and a restaurant outside and came whipping in and out with sandwiches and coffee. The press room belched musty smoke every time a man with frantic copy threw open the door. Some of the profoundest newspaper sleuths of Foley Square hunched over a poker game. Down in the wire room conscientious agency men wrote and rewrote colourful "leads." There was a sudden reinforcement of shock troops to the "working press," including unlikely ladies in mink clutching pencils. The corridors yawned and everybody told his favourite psychiatry joke.

The only ones who maintained a vigil far from this ribaldry were that special American breed of party renegades, the reconstituted patriots who survived their Russian baptism of the 'twenties and 'thirties and are now hot and frantic for anything and everything called "the American way." To them all jokes are suspect, a Liberal is a Communist party man in civvies. They know all about Communism. They reconnoitre the fringes of the gossiping crowd, and frown intently on all those who joke, hot for the universal liquidation of all free speech that is not the same as theirs. They are—if this fair account is to be maintained—as nauseating a crew of relapsed heretics as it would be possible to find at large outside Siberia.

### THE JURY'S RETURN

The jury again is sent to eat, to lunch. But they were no sooner back than the Judge called the clerk to call the Court. Now we all poured in, the newsmen, the anxious faction of the Hiss friends, the glowing partisans of Mr. Murphy, the professional liberals, the dawdlers, the old patient ladies (one of them symbolically knitting), the genteel vultures in at the kill. The doors closed, the Judge tugged at his gown, and the door of the juryroom opened. Alger Hiss, chalky and grey, slowly turned his head and peered far across the well of the court as each juror passed in. Mrs. Hiss looked nowhere but ahead. This time the jury had forgotten all its jauntiness. They avoided the face of Hiss, as Hiss craned for a glance, a token of hope or freedom. It never came. And the clerk rose up.

This was not the end of Hiss's life, but it was a shattering rehearsal of it. Now he must fight inside the bleak confines of declared guilt. All the horizon of cheerful and naive surmise had been his. Now he has to crawl up from dishonour. It was a most sad moment. And his dignity in meeting it, and the wispy spectacle of his wife, made it all the harder to take.

Kisseloff-23262

25/11/54  
Kisseloff

# MR. ACHESON'S PLEDGE

## Support for Hiss

**"I DO NOT TURN MY  
BACK ON HIM"**

WASHINGTON, JANUARY 25.

The Secretary of State, Mr. Dean Acheson, to-day reaffirmed his friendship for Mr. Alger Hiss, sentenced to-day to five years' imprisonment for perjury.

A few hours after Hiss had been sentenced Mr. Acheson said: "I should like to make it quite clear, whatever the outcome of any appeal by Mr. Hiss, that I do not intend to turn my back on Alger Hiss."

Hiss, a former adviser of President Roosevelt and secretary general of the San Francisco Conference, was an associate of Mr. Acheson in the State Department during the war.—Reuter.

## HISS PROTESTS HIS INNOCENCE

### Five-Year Sentence

From Allstair Cooke

NEW YORK, JANUARY 25.

In a melancholy twenty-minute session in the Federal Court this morning Judge Henry Goddard passed sentence on Alger Hiss and imposed the maximum prison term for a perjury offence of five years.

Hiss was found guilty last Saturday, by a jury of eight women and four men, on two counts of an indictment handed down by a Federal grand jury in December, 1948. He was judged to have lied in denying that he had passed confidential Government documents to a Communist courier twelve years ago; and to have lied in denying he had ever seen the man later than 1936.

Judge Goddard sentenced him to five years on the first count and five years on the second, but followed the usual practice in perjury cases of ruling that the terms should run concurrently. He did not, however, add any fine.

#### "HE HAS SUFFERED ALREADY"

Before the Judge delivered sentence, before a packed court, Mr. Claude Cross Hiss's counsel, begged that "any further punishment" be waived. In this most unusual and important case, he said, a case which had attracted more international attention than "any American trial in decades," Alger Hiss had paid a grievous penalty, "the worst that he could undergo," in "punishment of mind and heart . . . he has suffered, his family has suffered" ever since the day in August, 1948, when Whittaker Chambers first publicly accused him.

"As to what he has done since the Stalin-Hiller pact in 1939, his contributions to the interests of the United States and our international relationships, are matters beyond dispute. What little savings he had were gone long before the conclusion of the first trial. He has borrowed heavily on notes still unpaid. And the second trial has been financed by loyal friends and loyal Americans, who believed and still believe in his innocence."

*Boys RR  
3/11/50*

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Against the wishes of his client, Mr. Cross said, his head down and his small hands trembling, he felt it was his duty to say that he too had believed and still believed in the innocence of Alger Hiss.

"There are only two or three people who know the real facts. The jury believed him guilty or they would not have returned a verdict. They don't know. I don't know, and until the true and complete facts come out there will always be the lingering doubt which was manifested by a hung jury at the first trial," and by the request of the second jury, after twenty hours' deliberation, for a re-reading of the Judge's charges on "reasonable doubt."

With all this background, Mr. Cross begged, "with this history, and with the uncertainty of circumstantial evidence, and with what the defendant has gone through already," he thought that "commitment to gaol is not necessary and would not serve the best interests of society."

#### NO SNAP VERDICT

Mr. Cross also appealed to the judge to consider that the meetings at which Hiss allegedly passed the papers were the only meetings referred to in the second count, and therefore to sentence him, if it had to be done, on a combined count.

Judge Goddard sat as imposingly as ever through this plea and, when Mr. Cross was done, gently said that the jury's long deliberation inclined him to think it had not reached its verdict by "any snap judgment" but did "indicate a very full consideration and conscientious effort to arrive at the right verdict."

Then the Judge asked Mr. Murphy, the Government prosecutor, if he wished to be heard. Mr. Murphy, who has had congratulations from far and near for his undeniably brilliant prosecution of the case, and who is currently the white-headed boy of the jubilating House Committee on Un-American Activities, took a very subdued stand and said he did not think this was a fitting time "for a prosecutor to be prolix." He just wanted to add a word to Mr. Cross's remarks about the obscurity of the facts. The defendant had had two opportunities to bring them out and "to add now an air of mystery I think is not quite fair." He recommended that his Honour impose the sentence that his Honour thereupon did impose.

Judge Goddard said this was not a case, in his opinion, where sentence should be suspended, "there should be a warning to all that a crime of this character may not be committed with impunity. The defendant will stand up."

#### HISS'S STATEMENT

Alger Hiss, his grace and stoicism restored, rose. Mr. Cross got up at the same time and asked if Hiss might make a brief statement. The judge nodded. "Certainly."

Hiss was led closer to the Bench by two marshals, bowed to the judge and said in a firm voice, "I would like to thank your Honour for the opportunity again to deny the charges that have been made against me. I want only to add that I am confident that in the future the full facts of how Whittaker Chambers was able to carry out forgery by typewriter will be disclosed. Thank you, sir."

The judge then pronounced sentence, and, after notice of appeal, paroled Hiss in Mr. Cross's custody until the bail bond was signed this afternoon. Hiss was paroled in Mr. Cross's custody until the bail bond was signed this afternoon.

That was all, the last we shall see of Alger Hiss in a courtroom for some time, the last the Government ever hopes to see. His appeal, which was filed today, goes to the Circuit Court of Appeals for this district. If the verdict is upheld, the appeal will go to the United States Supreme Court. If it is reversed, there must then be another trial, the third agony of the interminable ordeal of Alger Hiss.

# FINAL STATEMENT OF CASE AGAINST HISS

## Evidence of Typewriter and Documents

From Alistair Cooke

NEW YORK, JANUARY 21.

The last phase of the Hiss trial began on Friday morning when Mr. Thomas Murphy lifted his impressive bulk, stood at a lectern in front of the jury-box, and began his summation—the American custom which derives from the classic “last word of the Crown.”

It had been said that this was an extraordinary case. “Ladies and gentlemen,” said Mr. Murphy with emphatic contempt, “it is an ordinary case. . . . In this courtroom everything is ordinary. The courtroom is a great leveller. . . . You don’t win any merits here because you are able to say, ‘I am different.’ There is one rule of law.”

It was a simple case, no more than the question Did Hiss lie under oath? But he would admit that this ordinary case had “some extraordinary angles.” Hiss was a lawyer. Hiss had “had an advantage denied to thousands of defendants before trial.” He had been able to question his accuser to the extent of thirteen hundred pages, in the Baltimore deposition. That was extraordinary. He had had the benefit of testimony from two medical experts, both of whom testified here and gave their services “free, without fee.” That was extraordinary. The Government could have afforded competent medical advice. But though he had great respect for the profession of medicine, “no suspicion of anything wrong with Chambers’s mind” had ever been asserted. Was there not a purpose behind the free testimony of the doctors? “Perhaps they unconsciously had a cause, they wanted to defend, to help, a friend.”

The issue was, did Hiss lie twice? If there had been a close association between Hiss and Chambers, certain things followed—that “they agreed on their basic philosophy . . . they were both Communists.” When Chambers saw the errors of his ways he quit, and when he saw the opposite philosophies of Nazism and Communism getting together he went to Mr. Berle, an Assistant Secretary of State, and told him something of what he knew. Why, the defence cried, did he wait till 1943 to talk to the F.B.I.? Why? Because Mr. Berle did not turn his notes over to them till then.

The defence said Chambers never told Berle about espionage. But the first sentence on Mr. Berle’s notes was, “underground espionage agents.” Chambers has no grudge against Hiss, who is the last name on the Chambers’s list. Chambers had used a beautiful sentence: “We were both caught in a tragedy of history.”

### SUBJECT BY SUBJECT

Mr. Murphy licked his thumb and turned a page. He would now refute topic by topic the whole defence catalogue. The rug?—We brought a rug dealer here, and the purchaser and invoices. Hiss admits he still has it. If it was not the same rug why didn’t he bring it in court? Obviously because “it proves the second count.” [The rug admittedly left New York for Washington not before December 29, 1936.]

Close association?—Hiss freely admits he agreed to buy the same farm that Chambers lived on. But he did not know Chambers well. “How psychic do you have to get?” Mr. Murphy cried in his favourite tone of hurt incredulity. Chambers said he had been lurching one day with Hiss when a friend dropped in named Plum Fountain. Mr. Murphy’s eyes

They had to put the date back, they had to get that typewriter out of the house before the end of 1937. Then they came up with the story about giving it to the Calletts, the family of their former maid. Why? Because it was inefficient, it would not work. Yet a sister of the Calletts came here and testified she used it unrepaid for two years. And a Government man came in here and typed one of the documents in three minutes. The Hisses say they went out and bought a portable for their boy to use—and they have only \$14 in the bank.

Now they’re stuck with the Callett story. They knew the F.B.I. was looking for that typewriter. And Hiss’s brother admittedly went to the Calletts early last year. What did he say? Didn’t he say—wasn’t it something like this?—“If an F.B.I. man comes here get in touch with my brother at once.” That is what happened. And then they have to get the Calletts to remember they got the typewriter as early as possible. You heard Perry Callett say he took it to a typewriter repair shop as soon as he got it. We show him that that shop did not open until September, 1938. All right, we say, maybe another place? Yes, he thinks it is. We then prove that one didn’t open till May, 1938. Isn’t it the truth that “the Calletts got that typewriter when Chambers quit the Communist party”—in April, 1938.

Mr. Murphy condescended, but not for long, to weigh the character witnesses, of whom Hiss had called 19. But think how many people had good reputations—Benedict Arnold, who sold out to the enemy. And Brutus. The devil himself . . . he could have called God himself as a character witness up to the time he was thrown out of heaven.

Mr. Murphy shook his head. “Character witnesses belong to another age.” Anyway, Hiss had called his boss Mr. Francis Sayre. But he was only one boss. What about the earlier ones? Where was Judge Frank, and former Secretary of State Byrnes, and former Secretary Patterson?

In the end, Mr. Murphy took a piece of paper in his hand. He had been going over the typing errors, not the mechanical errors the machine made. He had also noticed (so, by the way, did some of the first jury) some personal typing mistakes that were repeated both on the stolen documents and the letters Mrs. Hiss had typed. When they got in the jury room he advised them to “look for an R done for an I, an O for an I, an F for a G, an F for a D.” Take those instruments, said Mr. Murphy, and show they prove treason, and that is the traitor, tell the world our American jury system is well founded.

### THE JUDGE’S SUMMING UP

After lunch the Court assembled, the doors were locked, and Judge Goddard read his charge, quietly, unemotionally, with few stresses and little punctuation, but an occasional faint cough. It might have been, except for the particularising of some evidence, a standard charge for all perjury trials.

He recognised the expert opinions of the psychiatrist and the psychologist, but told the jury this was like all expert testimony—“purely advisory.” They could reject it or discount it utterly, as also they could the expert testimony of the Government’s typewriter man, who had said the documents were done on

He made it clear that Kisseloff-23265 accepted the diagnosis of the psychiatrist that Chambers was “a psychopathic personality”; they might also decide that in making the accusations contained in the indictment Chambers was, in those instances telling the truth.

He told them to weigh the reputation

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"And the Hiss gifts of furniture to the Chambers—Chambers still has them on his farm. The Hisses admit giving them. And they admit giving an apartment to Chambers without a lease and throwing in a telephone and a Ford car. Yet Hiss pretends this old friend was 'a sort of Jack London type of fellow,' a casual vagabond, a deadbeat he saw a time or two and then dropped.

The \$400 loan?—The F.B.I. didn't subpoena the Chambers till January, 1949, and the loan never came out till the first trial. Then the defence had to say the Hisses withdrew the whole amount for furniture, though they drew small cheques subsequently "When you need \$10." Mr. Murphy was licking his lips. "You go to a bank, but that \$400 in the sugar bowl is only for furniture." He turned another page.

The Chamberses' knowledge of the Hiss house?—It could all be learned by the F.B.I.s snooping from the roadway, the defence says. Could it? Well the next-door neighbour agreed with Chambers that the wall was white, and that there was a step, and chintz.

#### "THE IMMUTABLE WITNESSES"

Inevitably Mr. Murphy kept till the end the typewriter and the documents, what he has called "the golden calf" and "the immutable witnesses." He pointed to the typewriter, squatting heavily on a table facing the jury. "That wasn't made by Omar the tent-maker," he said.

The Hisses admitted it was theirs and that the documents had been typed on it. And Mr. Cross had tried to show that many carbons of the original documents had never gone to Hiss's office because the office stamp was not on them. But the Hiss secretary had said they saw lots of documents they did not stamp. "Carbons, carbons," Mr. Murphy jeered. "Why, this is the paper age." "And as for the hand-written memorandums, don't you crumple those you want to destroy and throw them in a wastebasket? Or do you fold them as neatly as these were folded?"

Before Chambers produced the documents the Hisses were vague about the typewriter. Mrs. Hiss remembered it distinctly at Volta Place. Then when the dates of the documents were exposed "the Hisses had to do some quick thinking."

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He recognised the expert opinions of the psychiatrist and the psychologist, but told the jury this was like all expert testimony, "purely advisory." They could reject it or discount it utterly, as also they could the expert testimony of the Government's typewriter man who had said the documents were done on the Hiss machine. He made it clear that even if they accepted the diagnosis of the psychiatrists that Chambers was "a psychopathic personality" they might also decide that in making the accusations contained in the indictment Chambers was in those instances telling the truth.

He told them to weigh the reputation of the defendant and warned them of the possibility of a man misleading his friends about his true character.

There was "one" striking difference between Judge Goddard's charge and that of Judge Kaufman in the first trial. Judge Kaufman took notice of a bill of particulars attached to the indictment which specified that the meetings implied in the second count were the meetings alleged in the first count at which the documents were supposed to have been passed. Therefore Judge Kaufman said that to find Hiss guilty on any one count was to find his guilty on both, and he was correspondingly to be found innocent of one or both. Judge Goddard ignored the bills of particulars and charged that the jury could find Hiss guilty of seeing Chambers in 1937 or later but innocent of passing the papers in 1938. The defence made no protest at the time, but this discrepancy is likely to be part of its appeal.

Judge Goddard cautioned the jury that they must find the evidence consistent with nothing but the guilt of the defendant if they were to find him guilty of the charges. He ended with these quite words:

"If you find that the law has not been violated as charged, you should not hesitate for any reason to render a verdict of acquittal. But, on the other hand, if you find that the law has been violated as charged, you should not hesitate because of sympathy or for any other reason to render a verdict of guilt, as a clear warning to all that a crime such as charged here may not be committed with impunity. The American public is entitled to be assured of this. I submit this case to you with confidence that you will faithfully endeavour to render a just verdict."

The Judge bobbed a smile at the jury. Hiss unfolded his arms, the jury went out, and we all stretched for the long wait. The defence counsel at once rose and asked to meet the Judge and the prosecution in chambers. There the defence took exception for the record to three parts of the charge:

1. The part in which he charged as a matter of law that the defendant's testimony before the grand jury was material to the grand jury investigation.

2. The part in which the judge had stated that even though the jury find the defendant not guilty they might nevertheless find him guilty on count two.

3. The part which "related to the testimony of Mrs. Chambers with respect to the allegation of count two."

*Boyer*  
31.1.10



# HISS FOUND GUILTY

## Final Scenes in Famous American "Communist" Trial

### BAIL CONTINUED: APPEAL TO BE MADE

From Alistair Cooke

New York, JANUARY 21.

At twelve minutes to three this afternoon the eighteen-month nightmare of Alger Hiss closed in on him and turned into reality. A jury of eight women and four men, who had been out for nearly twenty-four hours, came back into court and put a decisive end to his second trial for perjury on two counts of an indictment handed down in December, 1948, by a New York grand jury that was looking into espionage in the United States. The two counts were—

1. That Hiss "well knew" he lied when he denied passing secret State Department documents in and around February and March, 1938, to one Whittaker Chambers, at that time a Communist underground agent.

2. That he lied also in saying he had never seen Chambers after the first of January, 1937.

Hiss turned a grey face high towards the jury as they settled solemnly in their seats and the clerk read off the roll. Nearest the clerk was the forewoman, a widow from the Bronx, who got up as the clerk turned towards her:

"Members of jury, have you agreed on a verdict?"—The forewoman's small, rapid voice replied, "I have."

"And how say you?"—"Guilty on count one, guilty on count two."

In the ticking silence, the shortest gasp of surprise, a sort of whistling sigh, broke somewhere at the back of the courtroom.

"Guilty on both counts?"—"Yes."

"Members of the jury," said the clerk again, "will you kindly listen to your verdict as it now stands recorded. You find the defendant guilty on count one and count two, is that your verdict?"—"I do," said the forewoman.

"And so say all of you?"—"We do," said the forewoman as several of the jury nodded. They all looked straight ahead.

Hiss' head was high and immovable. He swallowed very slightly, but his chalky face flexed no muscles, his jaw was firm, the handsome bones set in their usual stoic mould. He put one hand over the hands of his wife, a flushed and now ageless little gnome staring into space.

#### HOUSE COMMITTEE STRENGTHENED

So ended an international incident that began on August 3, 1948, when Whittaker Chambers told the House Committee on Un-American Activities that among the members of a Communist underground organised in Washington in the nineteen-thirties was Alger Hiss, secretary to Mr. Justice Holmes, former assistant to an Assistant Secretary of State, the secretary general of the United Nations conference at San Francisco, a policy adviser to President Roosevelt at the Yalta conference, and lately—in the footsteps of Elihu Root and Nicholas Murray Butler—president of the Carnegie Endowment for International Peace.

What has been called an insoluble political mystery has been solved by the traditional judgment of the common law. The American people in 1950 have passed judgment on the political vanguard of the nineteen-thirties. They have given the assurance to which the presiding Judge said: "The American public is entitled . . . that a crime such as charged here may not be committed with impunity." They have guaranteed a new and confident lease of life to the House Committee on Un-American Activities. They have acknowledged the superior investigating methods of

the Federal Bureau of Investigation. They have also pretty certainly assured that a generation of fellow travellers will now for its personal comfort forget or suppress the knowledge of its allegiances in the heady days of the Popular Front.

As soon as the verdict was given, Mr. Claude Cross, the defence counsel, asked to have the jury polled and they were challenged in turn. They either replied, "I do," or "It is," or nodded their heads to agree with the verdict put to them. Mr. Murphy, the Government prosecutor, rose to move that Hiss be committed to gaol, "as all convicted defendants ought to be." Judge Goddard looked up. "I think not, Mr. Murphy," he mildly said. Mr. Cross begged to have bail continued at \$5,000, saying that Hiss had behaved impeccably during his year on bail. Judge Goddard nodded and granted the motion.

#### GROUNDS FOR APPEAL

The defence will file an appeal on the grounds, it is understood, that in re-reading to the jury the parts of his charge they came back to request (on "reasonable doubt" and "corroborative evidence") the judge left out sentences favourable to the defendant; and on the grounds cited by the appellate court in a recent case that a man may not be convicted of perjury if his accuser calls a witness who claims, or knows, he may claim, his constitutional privilege of refusing to answer questions.

In this trial the Government called one William Rosen, allegedly a Communist, to whom the Hisses' Ford car was re-assigned the day after Hiss turned it over to a Washington motor company. Hiss says he knows nothing at all about this man or the transaction. Chambers says it was part of the understanding with Hiss that his car should go to a poor Communist organiser on the West Coast. Rosen appeared this time and refused to answer almost every question put to him on the usual privileged grounds that anything he said "might tend to incriminate me."

If the defence's appeal is upheld by the appellate court the verdict would be reversed and there would have to be a third trial. If it is denied, the appeal would presumably be handed up to the United States Supreme Court, where it is taken for granted that two of the nine justices would beg to excuse themselves from considering it. Justice Frankfurter and Justice Reed appeared in the first trial as character witnesses for Hiss. Thus the continuing ordeal of Alger Hiss might not be resolved for another year or two.

#### COST OF THE DEFENCE

The defence of **Kisseloff-23267** cost him so far no money which is not the sort of money Hiss makes or ever had. The first trial used up all his savings and much more than that was borrowed. For the second trial he begged and borrowed amounts large and small from friends and sympathisers. He resigned as president of the Carnegie Endowment and has been replaced, but the board has still not removed him from the board of trustees. It is up to the judge on Wednesday to rule after sentence either that Hiss be committed now or continued in high bail (through all the long labour of his appeal, its review and possible passage up to the highest court in the land.

(Final speeches on the back page)

# SECOND JURY CONSIDERS ITS VERDICT ON HISS

## Prosecution's Scornful Closing Speech

From Alistair Cooke

NEW YORK, JANUARY 20.

After listening to more than a million words of testimony in the second trial of Alger Hiss the jury of eight women and four men were charged by Judge Goddard early this afternoon and at last trooped out into the jury room. Once again the face of Hiss lost its smiling cordiality and braced its jaw muscles for the long wait and an inner assault of emotions which the onlookers can only guess at.

To-day the Government had its traditional last word, and Mr. Murphy found it impossible not to pluck from the air the mantle of Lloyd Paul Stryker and revel in the banter, the scorn, the jocular irony its assumption requires.

Mr. Cross spent the rest of yesterday finishing a five-hour summation for the defence. He let the testimony of the psychiatrists fall where it might and manfully addressed himself to the Government's confident charge that it is the documents and the typewriter that are the unassailable witnesses of Alger Hiss.

### JULIAN WADLEIGH'S PART

There are three sets of stolen Government documents. There is a set that was photographed in miniature and hidden by Chambers in the pumpkin on his Maryland farm. There are 65 pages of typed documents. There are four little memoranda in Hiss's acknowledged handwriting.

Mr. Cross tried to show, by minuscule comparison with the State Department's distribution list, that of the micro-film documents only three went to Hiss's office. These three, he bluntly announced, were stolen from Hiss's office by Julian Wadleigh and all the rest went through his office and by Wadleigh's hand on to Chambers.

In the most laborious and ingenious part of his summation, Mr. Cross then analysed the political content of the handwritten notes. Two were about amending the neutrality law when the Sino-Japanese war was on and would naturally be of great interest to Hiss's boss, Francis Sayre, for whom Hiss says he made these notes and summaries. Another suggested France was "stretching" the neutrality agreement by shipping modern planes to the Far East. That too, Mr. Sayre would have to know about. Another was about the possible British and American retaliation, under the London Naval Treaty, against Japan's threat to build larger capital ships. This surely was more important to Mr. Sayre than it could be to the Russians.

Mr. Cross fought bravely to keep most of the typewritten documents out of Hiss's office and fell back on the inference that they had all been stolen by an unknown confederate of Chambers in the Far Eastern Division of the State Department, which is certainly where they all went. And how and when did who do the typing?—Surely it would have been easy to get a confederate to go to the Hiss's house and pose as a typewriter repair man, be

referred to the house of the coloured maid—to whom the Hisses say they gave the typewriter at the end of 1937—and then sneak in and type them right there in the Catlett's hospitable house, or sneak the typewriter?

Mr. Murphy made prodigious fun of this inference to-day.

### AT THE SCENE OF THE CRIME

"It's terrific. Imagine, some conspirator, confederate (those are good words) coming to the Hiss house in a Woodstock cap—the firm's name across the front—and he says, 'I'm the repair man. I've come for the typewriter.' And they say, 'Which one (Mrs. Hiss after all had had three typewriters in one year, pretty good for a longhand writer), the Remington, the L. C. Smith . . . ?' No, he says, 'I mean the Woodstock.' Oh, that, they say, 'you'll have to go to the Catletts'."

"So he goes along there, it's open house at the Catletts' they're always having parties, leaving the door open, have cellars and open hallways—you can see Chambers mingling with the guests at a coloured dance!"

Mr. Murphy puffed his jolly cheeks and blew through his walrus moustache. "Pah!" he said.

### CHAMBERS'S MOTIVE

Mr. Cross teased a curious courtroom by doing what Mr. Stryker had barely done. He could expose "the motive." The motive, he said, extending himself up and down before the jury, "was a bad motive . . . it was dishonourable." Only when we were out of court and compared notes could we disentangle his inferential theory that Chambers long ago, fearing Wadleigh might quit the party or be caught in the act, had compiled a file of personal histories on Francis Sayre, on Laurence Duggan and Alger Hiss. And when the Hiss libel suit put him with his back to the wall last year, then he pulled out the file on Hiss and swore to a close relationship and a record that was, in fact, nothing but an elaborate and expert tissue of circumstantial lies.

Mr. Murphy thought very little of this either. He would tell the jury what Chambers's motive was: "Simply, ladies and gentlemen, there ain't any motive." Mr. Murphy jeered at Mr. Cross's explanation of what would interest Hiss as a loyal State Department servant, especially at his 1939 work to amend the Neutrality Act in favour of the Allies. Why did he do that?—because when Chambers quit the party, Hiss became the hottest thing in Washington . . . he had to take the opposite position. He had to be a good boy from then on.

The only motive the jury need worry about, Mr. Murphy said, was "that typewriter and those documents." He swung his arm out and pointed at the machine and the Kisseloff-23268 which stood on a table facing the jury box. The documents were "the golden calf . . . each of them has a message. What is it? Alger Hiss was a traitor. Take these instruments away with you. Look at them well. They prove treason and that's the traitor. Go in there and come back and tell the world our faith in the American jury system is well founded."

*Handwritten:*  
Mrs. P  
3.1.52

# FINAL ROUND-UP OF WHITTAKER CHAMBERS'S LIES

## Counsel's Closing Speech for Hiss

From Alistair Cooke

NEW YORK, JANUARY 19.

The second trial of Alger Hiss went into its tenth week to-day and its last phase. The testimony ended on Wednesday and Judge Goddard called a recess yesterday to allow the counsel to prepare their summations. Mr. Cross summed up for the defence to-day. Mr. Murphy will take the Government's turn to-morrow, and immediately after Judge Goddard has given his charge the jury will go out, sometime late on Friday.

Hiss is charged with having lied to a New York grand jury that was inquiring into espionage when, on December 15, 1948, he denied that he had ever passed confidential Government documents to Whittaker Chambers in February and March of 1938, at a time when Chambers was a Communist courier, and when he denied he had ever seen Whittaker Chambers later than 1936.

To-day was the day of Mr. Claude Cross, but only in the literal sense that he had the jury to himself. Mr. Cross is small and portly and pretends to no other dramatic shape or form. He is also a corporation lawyer whose years have been spent indulging a preference for scrutinising contracts and naming names and checking dates. The purple prose and synthetic rage of the old trial lawyer are neither to his taste nor to his skill. And the gaudy toga of Mr. Lloyd Paul Stryker, Hiss's counsel in the first trial, can hang in the air unclaimed for all Mr. Cross cares. Mr. Murphy is probably content to leave it there, for he undoubtedly appreciates that beside Mr. Cross's air of plodding sincerity, a whimsical or smart man might leave the impression of a Smart Aleck, something no normal extrovert had to worry about in competition with Mr. Stryker. So Mr. Murphy is subdued and Mr. Cross is himself, a slow, sometimes fumbling keeper of the record, who has obviously dug and dug into every likely place to prove the innocence of Alger Hiss.

### "A CHRONIC LIAR"

He began to-day with the usual humble warnings: that the only issues in this case were the issues of the indictment, that the jury alone could judge the evidence and the judge alone advise about the law; that in perjury trials it is necessary to have two credible witnesses or one witness and credible corroborating evidence. He would show that in this case the only accuser was a chronic liar and the so-called corroboration was "pure fabrication."

To justify a conviction, even if the accuser is believed, the corroboration must be "consistent only with the guilt of the defendant." Mr. Cross gave his own interpretation of "reasonable doubt" and picked up and waved that famous sentence which Mr. Murphy probably curses himself for ever having dropped in the first trial. "If you don't believe Whittaker Chambers, the Gov-

name of John Land, and he says, Oh, yes, Eugene Lyons, the editor, suggested it."

When he is challenged about the illicit relationship he had with Ida Dales in his own mother's house, it was his mother who requested it. And to pass off all his admitted lies as a Communist he says he was "under instructions as a soldier."

### A CAR AND A RUG

Much mystery had been made about the sub-lease of the Hiss apartment to the Chambers, and the throwing in of the Ford car.

Why, Mr. Murphy asks, was there no written lease? "Good heavens, would Alger Hiss have sublet an apartment to a fellow-Communist, if that was what he was, without a written lease? No, Mr. Hiss had made any number of oral leases and had, no occasion to have a written one."

And how about the car, and Chambers's story that Hiss handed it over to a poor Communist organizer?—Well, Hiss had volunteered to the House committee the information about the car. Would he have done that if it had been a Communist transaction? And he got the reassignment of title to the car notarised, not by the motor company's agent, but by a man in the State Department. If he had been a Communist conspirator, do you suppose he would have had his acknowledgment taken by a man in the State Department who had been in the Government for thirty years?

Then there was the matter of the Oriental rug, which Chambers said he got from the mysterious Colonel Bykov (by the way, where was Bykov, why had he not appeared in this court?) as a reward for Hiss's services to the Russian people. Yet by Chambers's own testimony, and the documentary evidence presented here, the rug was supposed to have been given to Hiss before he ever met Colonel Bykov and before he had been supposedly enlisted in the noble cause. The only man who might know when the rug was delivered was a man in Washington called Silverman. The Government talked about this man but never called him. And Hiss still has the rug—"Is that the action of a man who is concealing something?"

### "IMAGINARY" CAR TRIPS

Mr. Cross then turned to the motor-car trips, which he called bizarre, imaginary and more "pure fabrication."

We are supposed to believe, for instance, that Chambers took a train to Washington from Baltimore, climbed in the Hisses' car, then drove back through Baltimore on his way—a 600-mile trip—into New Hampshire to see a man about a new monetary system in Russia! He did not tell the Hisses where they were going or why, he just talks to this man, now dead, and then they register at an inn—at which in fact the defence had shown they never did register, as they never registered at any of the places Chambers swore they went on overnight visits together.

The very morning of that New Hampshire trip, the defence had shown, Alger Hiss had gone into a bank of Maryland and Massachusetts. There is no way of getting from the eastern shore to the mainland and down eighty miles to Washington except by car. Ergo, and obviously, "That trip never took place."

Now, for the notorious \$400 loan in November, 1937.

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Mr. Cross's perusal of evidence is so artless and pedestrian that he flits, as the mood or memory takes him, from item to item, without organizing it into a discernible argument. But he did seem to spring the only considerable rebuttal he has to offer to what Mr. Murphy calls "the immutable witness" of the documents by pointing out early on that Chambers had taken his oath here that he had all the documents from Alger Hiss alone, and then under cross-examination—"when I took out Baltimore 10 and laid it on the jury rail"—he swore with equal solemnity that it might have come from another man.

### LATE ADMISSION OF ALIAS

Then Mr. Cross settled down more methodically to refuting Chambers topic by topic. He tried to show, in order to destroy the second count, that in all the supposed visits between the two families that the Chamberses had testified to Mr. and Mrs. Chambers could not agree about a single one. In compiling a "schedule" of their addresses and movements through the suspect years, the Chamberses had first failed to remember a single alias they used. But in this trial, when Chambers knew the defence had a copy of a false passport procured under the name of David Breen, Chambers came into this court and swore that he had discussed the name with Hiss, and that Hiss was privy to the whole plot to have Chambers go to England as a Communist worker masquerading under a religious "cover."

Whereas Hiss had stayed consistently with his first story that Chambers was known to him as "a free-lance writer," Chambers had denied it, though all the documentary evidence showed he was known to his nephew as such and Mrs. Chambers had applied for her daughter's entrance to a school and described the father as "a free-lance writer."

Possibly the most telling passage that Mr. Cross has managed to get off in this trial was something he said as he looked up from his bulky notes, took off his glasses, and cried:

"Chambers always puts the blame on somebody else; when he was asked by the House Committee if he had ever written under a pseudonym, he says 'Oh, no.' Then he is asked here if he did not write for the 'American Mercury' under the

name of Cross then turned to the motor-car trips, which he called bizarre, imaginary, and more "pure fabrication."

We are supposed to believe, for instance, that Chambers took a train to Washington from Baltimore, climbed in the Hisses' car, then drove back through Baltimore on his way—a 600-mile trip—into New Hampshire to see a man "about a new monetary system in Russia!" . . . He did not tell the Hisses where they were going or why . . . he just talks to this man, now dead, and then they register at an inn—at which in fact the defence had shown they never did register, as they never registered at any of the places Chambers swore they went on overnight visits together.

The very morning of that New Hampshire trip, the defence had shown, Alger Hiss had gone into a bank on the eastern shore of Maryland and made a deposit. There is no way of getting from the eastern shore to the mainland and down eighty miles to Washington except by car. Ergo, and obviously, "That trip never took place."

Now for the notorious \$400 loan in November, 1937.

The Hisses took the money to buy furnishings for a new house. The Government says the house was still being advertised two weeks after the money was withdrawn. Well, the defence couldn't help that; the good lady who put in the advertisement "must have got her wires crossed with her mother," who had signed the Hisses' lease on December 2.

Why didn't Chambers get a loan of \$486 from the Hisses, which was what the car he had bought had cost? Mr. Cross would tell them why. Chambers had never mentioned a loan of \$400 until, after Hiss had sued him, he had spent "his days and nights with the F.B.I." after they had impounded Hisses' bank records. (Mr. Cross did not mention that there has been no evidence to this effect, but he evidently thought it a fair deduction.)

### COACHED INTO A RECOGNITION?

In much the same way, Mr. Cross suggested Chambers had invented a piece of evidence which came up this week for the first time, when a former maid of the Chamberses swore she had seen the Hisses on overnight visits to the Chambers house in Baltimore—something the Hisses vehemently deny. Mr. Cross was not saying the maid had lied. He was saying that Chambers had coached her into a recognition that was no recognition at all, and that if she had been left to her own memory, it would have flashed back to her what in fact she admitted here had been her first thought when F.B.I. showed her a picture of Mrs. Hiss: "I know her . . . she is a movie actress."

As for Mrs. Chambers's meticulous recollections of the Hiss furnishings at the Thirtieth Street house, they could all have been concocted from standing outside the house ("I will tell you where the kitchen and bathroom of a house are by simply looking for the chimney and the ventilators"). And the two errors she made were just the errors you would make if you'd never seen the house till 1946. For it was in that year that the house acquired a white wall, and a stone piazza, both of which Mrs. Chambers "recalled" from her "invented" visits of 11 years ago.

# A PSYCHOLOGIST'S OPINION OF WHITTAKER CHAMBERS

## Keen Cross-Examination in Hiss Trial

From Alistair Cooke

NEW YORK, JANUARY 13.

To-day was the thirty-fifth day of the second perjury trial of Alger Hiss, and the last defence-witness was on the stand. He was Dr. Henry Murray, the former director of the Harvard psychological clinic, and the inventor of the thematic apperception test. Over the spluttering protest of Mr. Murphy, the Government prosecutor, that to let in a psychologist who is not a psychiatrist would make a "burlesque of a court of law," Judge Henry Goddard nevertheless took the risk and allowed his testimony.

Dr. Murray said that his speciality had been the analysis of psychopathic personalities through the internal evidence of their writings. He had looked into the works of Whittaker Chambers, Alger Hiss's single accuser, and found there "a higher proportion of images of disintegration and destruction, filth and dirt, decay and decomposition, and death than in any writings I have ever examined." He completely concurred with the professional opinion of Dr. Carl Binger, who was on the stand for three days, that Chambers is a psychopathic personality much given to the lying, false accusation, grandiosity, and egocentricity of the type. Mr. Murphy had a tough time to-day trying to discredit Dr. Murray's professional qualifications and his perfections.

### SECRET SERVICE PSYCHOPATHS

The other day Mr. Murphy had Dr. Binger squirming on the rack of a pretty telling analogy. He wanted to get the doctor to discount as psychopathic symptoms all the deception, false witness, and secrecy of Chambers while he was an admitted Communist spy, or as Mr. Murphy preferred it, a dedicated and loyal "soldier" in the Communist cause. During the war, did not thousands of loyal citizens and normal men enlist in the service of the Office of Strategic Services—the famous cloak and dagger men—and had not they to take out false passports, swear falsely, and generally conduct themselves as slippery characters? Dr. Binger conceded they had, but he thought the analogy was false.

Mr. Murphy put the same teaser to Dr. Murray with the confident assumption that surely the O.S.S. men were not psychopaths. Dr. Murray said, on the contrary, that the ranks of its applicants were full of them, and he had had the job of weeding them out. "The whole nature of the functions of the O.S.S. was particularly inviting to psychopathic personalities," he said. "It involved sensation, intrigue, the idea of being a mysterious man with secret knowledge, working as an intelligence officer."

### GRILLING OF DR. BINGER

But the great day in this second trial was the day of Dr. Binger's grilling by Mr. Murphy, who for the purposes of

matters like religion, friendship, marriage, penitence—which for most men are conspicuous badges of their better nature. And since it is the job of psychiatry to think most clearly about what is unthinkable, Dr. Binger, however gently he probed, was tickling the nerve ends of human pride and got the protesting, bellow, the hysterical giggle, and the post-operative sarcasm that all such superior surgeons must expect for a very long time to come.

### "MR. MURPHY'S COMMON SENSE"

Mr. Murphy is a wonderful representative of the big, gruff, all-American, nonsensical regular fellow, attempting with stupefied sincerity to follow the obvious absurdities of what Menchen, the great debunker, called the "head-feelers." Let us see now, Mr. Murphy seemed to say, looking around him at the bewildering display of psychological "book larnin'": Dr. Binger had put in evidence.

Now here the good doctor says personal untidiness and bad teeth are some of the symptoms of this psychopathic personality. But, doctor, how about dear old Will Rogers, and Owen D. Young, and Bing Crosby, they were no fashion plates, were they psychopathic? Not on that evidence, Dr. Binger allows.

And then how about this matter of Chambers leaving a typewriter on a streetcar or train because it reminded him of the past?—Don't thousands of wives throw away their wedding rings in Reno every year to forget the past?

And hiding the documents in a pumpkin, is that so bad, doctor?

How about putting the Connecticut Charter in the Hartford oak?—Were the early colonials psychopathic? Dr. Binger had the sense for his own good to imply they certainly were not.

You say normal people hide things in banks. How about the mother of Moses? Didn't she hide him in the bulrushes? "She could scarcely have put him in a safe-deposit box," Dr. Binger reflected in his only swift come-back of the day.

For by now Dr. Binger seemed a little weary of his rôle and the desperate task of bucking the canny and blithe "common sense" of Mr. Murphy. Moreover, Mr. Murphy rightly saw that Dr. Binger and the defence counsel had spread their suspicious net much too wide and presumed to find pathological significance in many things they would now probably rather forget.

### THE CEILING-GAZING TEST

For instance, Dr. Binger noticed that Chambers on the stand seemed to establish no contact with his questioner; he constantly looked up at the ceiling. Well, Mr. Murphy had kept a check of Dr. Binger's ceiling-gazing on the stand. He had done it 59 times in twenty minutes. Psychopathic, doctor?—Not by that token alone.

And then Dr. Binger had been very struck by the way Chambers rarely answered questions by stating what was the fact, but said always, "it must have been," "it could have been," or "it should have been." That certainly did not tally with Mrs. Chambers got tangled up in the habit for awhile. Well, Mr. Murphy

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get the doctor to discount as psychopathic symptoms all the deception, false witness, and secrecy of Chambers while he was an admitted Communist spy, or as Mr. Murphy preferred it, a dedicated and loyal "soldier" in the Communist cause. During the war, did not thousands of loyal citizens and normal men enlist in the service of the Office of Strategic Services—the famous cloak and dagger men—and had not they to take out false passports, swear falsely, and generally conduct themselves as slippery characters? Dr. Binger conceded they had, but he thought the analogy was false.

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### GRILLING OF DR. BINGER

But the great day in this second trial was the day of Dr. Binger's grilling by Mr. Murphy, who for the purposes of historical precedent put on a shuddering demonstration that when a psychiatrist is in the offing hell hath no fury like a layman scorned.

Dr. Binger's rôle was the long-suffering and unenviable one of a profession which, if not attempting to be holier than thou, is at least dedicated to the proposition that it knows better than Mr. Everyman why he behaves the way he does. This is an exasperating claim and the common man will probably rise against it for generations under the misguided assumption that such a claim robs him of his self-respect, whereas it means only to free him from self-deception.

It is impossible to guess by now how the jury feels about any testimony. But the courtroom, the spectators, the newspapermen, all bristled at the presumed pretentiousness of Dr. Binger in speculating about the personal motive of

banks. How about the mother of Moses? Didn't she hide him in the bulrushes? "She could scarcely have put him in a safe-deposit box," Dr. Binger reflected in his only swift come-back of the day.

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And then Dr. Binger had been very struck by the way Chambers rarely answered questions by stating what was the fact, but said always "it must have been," "it could have been," or "it should have been." This memory certainly did not tally with mine, though Mrs. Chambers got tangled up in the habit for awhile. Well, Mr. Murphy had looked over the transcript of the first trial and found that in 770 pages of testimony, Chambers had used one of those expressions only ten times, whereas in 530 pages of testimony, Alger Hiss had used one or the other 158 times.

"Panhandling" was another symptom Mr. Murphy doubted. He got the doctor to agree it meant "accosting strangers on the street for a handout" and Dr. Binger agreed Chambers had never done that and withdrew the imputation.

"It says here," Mr. Murphy went on, "that a psychopath is incapable of stable attachments. Would not marriage to the same woman for nineteen years perhaps represent a sign of stability?"—Perhaps, was the expressionless reply, though a marriage might look stable on the surface and be quite the opposite, a subtle shaft at the holiest respectability which the jury took with no perceptible wince.

Wouldn't holding down one job for ten years be a fair symptom of stability?—Could be, said Dr. Binger,—the sort of reply that old, wise men might approve but that carried a light and cynical note for others, for the jury perhaps.

### AT THE END OF THE DAY

At the end of the long day, and Mr. Murphy's extremely able cross-examination, Dr. Binger stuck adamantly to his diagnosis. "Can you still say, doctor, that this man is psychopathic?" The doctor could and did most certainly.

The doctor had done noble work for a suspect cause, and Mr. Murphy for all his occasional feigned archness and voluntary astonishment, had put just the questions that a jury would want to ask. We shall not know until the verdict is given whether the psychiatric testimony boomeranged on the defence. It is only one reporter's guess that the common man would rather steer clear of the mysteries of emotional health, and that when they are invoked he is inclined to protest, as Mr. Westbrook Pegler did at the solemn analysis of the mysteries of love in books about marriage: "We all, baby,—the tater-hoein' homespun folks of the great American majority—Well, stranger, we don't regard sex as any fittin' topic for a book."

# HISS A FORGOTTEN SPECTATOR

## The Layman Hands the Psychiatrist a Very Tough Assignment

From Alistair Cooke

NEW YORK, JANUARY 11.

The presiding judge in the Hiss perjury trial had no sooner set a precedent in the Federal courts by letting a psychiatrist say what he thought about a witness's sanity than the courtroom began to croak with snuffles and hacking coughs.

This psychosomatic protest did not pass unnoticed by the learned and caused many a knowing aside when, at the end of the first day of Dr. Binger's testimony, one of the jurors broke out in a fever and heavy cold, which brought a nurse whisking to his side and the announcement, at the luncheon recess, that he would be unable to go on with his duties.

Since the trial had now gone thirty days, and the jurors were due for an extra munificence of \$3 a day, Judge Goddard exercised his discretion in the sick juror's favour and postponed substituting for him one of the attending alternates. The juror was still out the next day and consequently the trial was postponed until yesterday, when the juror got up from his bed and came gamely into court but still pretty haggard and rheumy.

We were now about to witness not only the first Federal attempt to discredit the competence and judgment of a distinguished psychiatrist but a sort of public trial run of the Common Man's resistance to psychiatry. In this joust, Mr. Murphy would ask no title more glorious than that of representing the humble inquiring layman. And he stood up yesterday for the ordeal like Horatio, the time-honoured punctum indifferens, a stand-in for the jury and all good men and true. Before the battle was half-joined Mr. Murphy also emerged as the champion of the character of Whittaker Chambers, not merely as a penitent conspirator but as a normal man, a "courageous" and "kindly" man, Alger Hiss was almost a forgotten spectator.

Mr. Murphy got Dr. Binger to link the episodes and testimony (in the evidence he had been asked to assume) with the characteristics—repetitive lying, pathological accusation, stealing, vagabondage, bizarre behaviour, and the rest—Dr. Binger had attributed to Chambers as symptoms of a "psychopathic personality."

### "PLAIN FACTS, PLEASE"

First Mr. Murphy put into the record the fact that Dr. Binger was certified by the American Board of Neurology and Psychiatry only two or three years ago, though he graduated from Medical School 35 years ago. Dr. Binger tried to explain the complex of technical requirements which would dispose of this seeming anomaly (and which, in fact, would technically disqualify half the most celebrated psychiatrists in Europe). But Mr. Murphy stopped him. He wanted to have plain facts and plain answers to plain questions—just about the toughest assignment anyone could wish a psychiatrist. He asked Dr. Binger if he had ever been psycho-

Goddard grinned with the rest and made no move to quieten the court.

Mr. Murphy swept in on the ebbing wave of laughter. "You think if the parent believed it, it would be only a psychopathic personality symptom?"

"Oh, no. It would be a symptom of much else."

"You said it," remarked Mr. Murphy. In his direct examination Dr. Binger had said that the first symptom on which he diagnosed Mr. Chambers's "condition" was "based on a series of repetitive and continuous lies covering approximately twenty-four years of this person's life." Later he mentioned that he had courted twenty of them.

It was Mr. Murphy's set course to tot them up to many less, a procedure which Dr. Binger thought "futile, because I did not base my diagnosis on a statistical count of lies."

But Mr. Murphy hacked away, shaving away "malign" intent on as much as he could, persuading Dr. Binger to count as one lie all the false statements Chambers had made when he took out a false passport "under orders," when—as Mr. Murphy picturesquely put it—he was "a soldier in the Communist cause." In the end Mr. Murphy had counted about ten lies over a period of 33 years.

"Doctor," Mr. Murphy threw himself sportingly on Dr. Binger's charity, "what's par (for the course) for a normal person?"

"I think you have more experience than I have, Mr. Murphy," the doctor answered.

Mr. Murphy was hurt and said so and asked for an apology. But Judge Goddard leaned over and said he was sure Dr. Binger meant no reflection on Mr. Murphy but was referring to his experience as a prosecutor. Dr. Binger said that was correct.

### SINNERS AND SAINTS

Mr. Murphy tried to damage the method Dr. Binger had used of forming an opinion from reading Chambers's writings. He tried to get him to say how psychopathic, for instance, Thomas Merton, the newly converted Trappist, might be; or Louis Budenz, once editor of the "Daily Worker," who had repented and who "had gone back to his religion." But Dr. Binger was not to be drawn.

"Would it be a fair statement to say that a great many sinners and saints have psychopathic personalities, a great many?"

"I don't think I can answer that because diagnosis is based on a life pattern and I do not know the life pattern of a great many saints and sinners," the doctor replied. He admitted, however, that he knew nothing at all about the first sixteen years of Chambers's life, and would like to know.

Mr. Murphy then asked:

"Doctor, would you say that other psychiatrists, let us say as qualified as yourself, might perhaps have a different opinion based upon the facts you have?"

"I should be very surprised if they did. I have talked to a great many of them," said Dr. Binger.

"Apart from your surmise difference of opinion, be naturally it would be."

"Doctors have been known to disagree frequently on diagnosis?" "Frequently."

"And some doctors have been known to be wrong on diagnosis?" "Frequently."

Mr. Murphy added: "Have you ever been wrong, doctor?"

"Certainly."

Kisseloff-23273

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Mr. Murphy tilted a friendly head. "Would you, try, Doctor, just to say 'Yes' or 'No,' and we will go much faster?"

It seemed we might go very fast indeed when Mr. Murphy, having laid out in battle array every Chambers episode that had led the doctor to his opinion, provoked the doctor into the warning, "I have to consider the totality of the picture. I can't isolate my judgment according to specific parcels of information." Time and again Dr. Binger refused to say whether an act, a statement, or a mannerism was by itself a conclusive symptom of a psychopathic personality. "I would be delighted to oblige you, Mr. Murphy," he would say, or, "I don't want to bore you." But he had to insist through several hours that his opinion "is based, as I have said repeatedly, on a whole life pattern as far as I knew it."

#### "HONEST TOM" WRESTLES

"Surely there must be some single acts, some flagrant lie, that would stand alone as a symptom," Honest Tom Murphy seemed to say. He squared his shoulders and wrestled with the difference between "normal" lying and "repetitive" or pathological lying.

"How about a man's telling a lie to his wife to avoid an unpleasant argument?" "Pretty normal," Dr. Binger replied.

Telling children over a period of years there was a Santa Claus? "No symptom," said the doctor—that is an accepted part of folk mythology and the parents simply take on what is traditional.

Well, "would you say that telling the children for many many years that the stork brings the baby—would that indicate that the parent perhaps was manifesting a symptom of psychopathic personality?"

"If the parents believed it, I would think it might."

This dead-pan sally convulsed the court, the counsel, the reporters, and the crowd of seekers after what someone called "filthy testimony." Old Judge

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"I should be very surprised if they did. I have talked to a great many of them," said Dr. Binger.

"Apart from your surprise, would a difference of opinion be possible?"

"Naturally it would be."

"Doctors have been known to disagree frequently on diagnosis?" "Frequently."

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# PSYCHIATRIST GIVES COURT OPINION ON A WITNESS

## Mr. Chambers's "Character Disorder"

### JUDGE IN ALGER HISS CASE DEFENDS AN INNOVATION

From Alistair Cooke

NEW YORK, JANUARY 6

Yesterday, for the first time in the history of the Federal Courts, psychiatric testimony was allowed in order to discredit the credibility of a witness, Judge Henry Goddard, the 74-year-old presiding judge in the second perjury trial of Alger Hiss, put out a memorandum allowing a psychiatrist to give his expert opinion about the mental condition of Whittaker Chambers, Hiss's accuser and the Government's chief witness.

This precedent, which the defence had fought to establish in the first trial, only to have Judge Kauffman shun it at the last moment, was set by Judge Goddard after a long argument in chambers last week. In the moment that he published his ruling yesterday afternoon he also allowed Mr. Claude Cross, the defence counsel, to call the psychiatrist to the stand.

Mr. Thomas Murphy, the big, shaggy Government prosecutor, begged for a last word of protest. He appreciated that his Honour had given considerable time and study to this problem, and he had great respect for his Honour's "learning and long time on the bench." But he asked, without hope, for a reversal of the judge's ruling because—

"As I read the cases and the text-books this is the first time in the history of Anglo-Saxon jurisprudence that the testimony of a psychiatrist is being admitted to impeach the credibility of a mere witness, when there has not been one scintilla of proof indicating that the witness, Mr. Whittaker Chambers, has had any institutional confinement or treatment by a doctor other than for his teeth and hair, and because it is a direct encroachment on the province of the jury.

"I submit," said Mr. Murphy from his great but forlorn height, "that it is for the jury and the jury alone to determine where the truth lies, and that duty, under our system of law, cannot be usurped by a medical expert."

Judge Goddard leaned forward with his usual imperturbable courtesy and thought that "perhaps you are mistaken when you say it had never been introduced in any court in this country." He went on to cite cases where it had been allowed in the state courts of Texas, Michigan, New Jersey, New York, and Georgia. But he acknowledged it was the first time in a Federal Court. He mentioned the modern ruling which the Federal Courts have followed ever since a 1921 case, where a psychiatrist was allowed to testify only to reputation and not to give an expert opinion. But this, said Judge Goddard, was a long time ago, "before the value of psychiatry had been recognised."

#### EFFECT ON JURY

It was apparent to him "that the outcome of this trial is dependent to a great extent upon the testimony of one man—Whittaker Chambers."

Evidence of insanity is not merely for the Judge on the preliminary question of competency, but goes to the jury to affect credibility." In this case he thought it was "undoubtedly relevant and material and in view of the foundation which has been laid, I think it should be received. In my charge to the jury I shall advise them of the weight which may be given to such testimony."

The judge leaned back, Mr. Murphy propped his head up at the Government table, the defence lawyers silently concurred with Mr. Murphy's respect for the Judge's great learning, and the courtroom craned and fretted for the great moment.

Dr. Carl Binger was called. He is a big, athletic, genial, leather-junged man with a record sufficiently distinguished and an accent thoroughly American to upset the popular preconception of a psychiatrist, to which Hollywood is devoutly enclined, of a rather tense and eccentric Viennese who makes passes over his patients while incense streams from the floor. It remains to be seen, and it will be the decisive test of this trial, the value of psych...

Dr. Binger strode up to the witness chair and Mr. Cross rose at the end of the jury box. But we had seventy teasing minutes to go before Dr. Binger

could pronounce what everybody was in court to hear—his professional opinion of the sanity of Chambers. After establishing the unquestioned reputation of Dr. Binger, which goes all the way from a citation by General Pershing for control work on influenza epidemics in the first world war to recent psychosomatic studies of the emotions in cases of high blood pressure, and his present eminence as Professor of Clinical Psychiatry at Cornell, we were then called on to endure the necessary legal bugbear of the "hypothetical question."

This is the postulate on which the witness is asked to base his professional opinion. It entails reviewing practically the whole testimony of the witness in question and prefacing every statement of fact and recollection of testimony with the phrase "assuming further that," the American equivalent of the English "put the case that."

Mr. Cross put in a hoarse plea for a recess at one point, but after a rest and a swig of New York's precious water he was able to finish his selective digest of the Chambers testimony. Having carefully confirmed the fact that Dr. Binger had watched Chambers through all his testimony in the first trial, and one day of the second, and had studied all his stories, poems, articles, and translations, Mr. Cross then put the priceless question, which last June Dr. Binger was barred from answering—

"Yes, Dr. Binger had formed an opinion within the bounds of reasonable certainty."

"What is your opinion?"

"Mr. Chambers is suffering from a condition known as a psychopathic personality, a disorder of character the distinguishing features of which are amoral and social behaviour."

Dr. Binger explained that such people did not take into account the ordinary accepted conventions of morality and had "no regard for the good of Society and of individuals" and were therefore frequently destructive of both. Some of the symptoms of this condition were "chronic, persistent, and repetitive lying; acts of deception and misrepresentation; alcoholism and drug addiction; abnormal sexuality; vagabondage, panhandling, inability to form stable attachments, and a tendency to make false accusations."

#### A MIDDLE STATE

Mr. Cross was alert to the false inferences that are readily drawn by laymen from psychiatric language and got the doctor to say that an understanding of this sort of personality "has nothing to do with the conventional judgment of sanity," that a psychopath might hold a responsible job, that he might have some characteristics of merely neurotic people and also might exhibit some characteristics of a "psychotic or insane" person, but that on the whole he stood on "a kind of middle ground between the psychotic and the neurotic." It was a standard diagnosis of the American Psychiatric Association, was included in the Mental Hygiene Laws of New York State, and was so defined both here and abroad. It had been recognised for a long time. As far back as 1855 a J. C. Fritchard, of Bristol, England, had called the same condition "moral insanity."

Dr. Binger said there were no very reliable statistics of the incidence or frequency of these personalities because "they are usually unaware of the nature of their disturbance and therefore do not seek psychiatric help, but they are frequently, especially when they are minors, adolescents, or when they run afoul of the law, sent to psychiatric hospitals or to psychiatrists." On the surface they might appear to live normal lives, but in fact they lived out the roles their imagination suggested, and "on the basis of such imaginations they will claim friendships where none exist, just as they will make accusations which have no basis in fact, because they have a constant need to make their imaginations come true by behaving as if the outer world were actually in accord with their imaginations."

And because they were always playing part which was true for them, they are amazingly isolated and egocentric." A could give a very rough notion of the frequency of this condition by noting that of the 1,850,000 men rejected for psychiatric reasons in the last war 17 per cent were turned down on this diagnosis.

Kisseloff-23275

# FIGHTING THE CHRISTMAS SPIRIT AT THE HISS TRIAL

## More of Chambers's Stories Discredited

From Alistair Cooke

NEW YORK, DECEMBER 22.

A shudder of more than seasonal intensity passed over the Hiss trial lawyers yesterday in the windswept Federal courtroom where the aged Judge Goddard, evidently a man with coursing English blood in his veins, insists on presiding with the windows open. For what came in on the rimy air was the approaching jingle of Santa Claus and his reindeer, as discomfiting a sound as a trial lawyer ever hears. No prosecutor in his senses wants to insinuate perjury in his fellow men, let alone in an alleged fellow-traveller, while the carollers outside are lobbying for goodwill. And no defence lawyer wants to appear to be enlisting the aid of the Christmas legend on behalf of a client he maintains is innocent at any time of the year.

So Mr. Cross, for the defence, winding up his direct examination of Alger Hiss, retreated tactfully into a file of documents and dates, with which as an old corporation lawyer who has had little experience of criminal trials he is most at home. Even after he had got through what Mr. Murphy, the Government prosecutor, jeeringly described as "courtroom filibuster" there was still an hour left in which Mr. Murphy had to face the highly unchristian task of beginning to cross-examine the defendant.

### OLD EVIDENCE RE-READ

Mr. Murphy contented himself with reading aloud ten pages of Hiss's testimony before the House Un-American Activities Committee to try to show a glaring discrepancy in Hiss's account then and now of when and how he came to give Chambers an old Ford. He undoubtedly succeeded in proving that Hiss had amended his recollection, for Hiss said last year that he "threw in" the car with an oral lease on the Washington apartment he had let Chambers live in. Hiss's old recollection was that he didn't need the car because he had a new one, an error now attested by documentary proof and his present testimony that he did not buy a new car for at least another couple of months.

So it was a thankful moment when Judge Goddard saw the hands of the clock stand at 4 30, and with a courtly bow to the jury and a nod to the Court wished everybody a merry Christmas, mentioned that he included both the defence and the Government lawyers in this benediction, and adjourned the trial until next Tuesday.

In the past ten days the defence has brought on most of its witnesses from the first trial, with some notable exceptions. Nothing has been seen or heard of Mr. Justice Frankfurter and Mr. Justice Reed, for the cogent reason that at least three members of the first-trial jury thought it improper to call Supreme Court justices as character witnesses. There is also the point that if Hiss were convicted, his appeal would go in the end to the Supreme Court, which might find itself denuded of a quorum of impartial judges.

But there have also been new witnesses and new evidence. Mr. Cross never scintillates but he also never shirks the most tiresome hard work. Whatever can be turned up in Hiss's favour by a lawyer with the virtues of a mole, Mr. Cross will turn up. His courteous, laborious manner tends to make Mr. Murphy by contrast look like a jivery smooth article, and Mr. Murphy gives a sense of knowing this and restraining himself to avoid inheriting Mr. Stryker's smart-alec mantle.

### THE CHIEF ACCUSERS

The documents and the typewriter are still the corroborating accusers that dog and bait Hiss at every turn. It is essential to show that the Hisses got rid of the typewriter before January, 1938, by which time somebody started to type the damning documents. And it may be essential either to identify the missing typist or to develop the circumstances under which this missing witness could have had access to the typewriter.

On the documents, Mr. Cross has managed to infer that at least five of them probably never went to Hiss's office and a few others might possibly have been pilfered by Julian Wadleigh. On the typewriter, he has had no luck

at all and had the misfortune the other day to provoke a defence witness into one statement not helpful to Hiss. One of the Catlett boys, son of the Hisses' Negro maid, swore that the typewriter came to him as a present from the Hisses at a time he could well remember, because he used it for the first time after he and his mother had moved into a new house, which he was certain was not later than 1936. Mr. Murphy pressed him to say why the memory was so vivid. He replied that this home was lit by a kerosene lamp, and he never would forget the day when they could afford to have electricity turned on.

Mr. Murphy was extremely solicitous to have him be sure that this was the truth, and having got him to say so then slapped suddenly in evidence a power company record showing that the negro family had the electricity turned off at the old house and turned on at the new the day they entered it. The date was January 17, 1938, a date perilously late for the Hisses' comfort.

### BADLY DAMAGED STORIES

But Mr. Cross has badly damaged three particular stories of Chambers that in the first trial piled such a circumstantial load on Hiss's shoulders. The first is the beguiling account given by Mrs. Chambers and supported by her husband of a party at the Hisses' home in Washington on New Year's Eve, 1936. This was the time when Chambers was supposed to have got sick on port wine. Mrs. Hiss has turned up a letter written to her by Hiss from Washington on December 13 of that year. It established beyond doubt that she was then staying with some friends in a New York suburb and would be marooned there for some time because her son had suddenly got chickenpox.

Mr. Cross read Hiss's letter to the jury. It was an affectionate, even a charming, letter full of devoted advice about the son and assurances that Hiss would get along all right by himself. It disposed with a certain naive pathos of the Chambers' story, for it was replete with the so-called "simple speech," the "thees" and "thous" of a devout Quaker family.

The second was the disturbing story of Chambers, which the Hiss bank records seem to confirm, that Hiss had lent him \$400 in November, 1937, with which to buy a motor car. True, \$400 had been withdrawn a day or two before Chambers paid a little more than that as a down payment on a car. The Hisses and their old maid say the money went to buy furnishings for the home they moved into six weeks later.

But the records were now read to show also that after the withdrawal the Hisses had only about thirteen dollars left in their account and had to get a loan of three hundred more from a bank to help Hiss keep up a monthly payment of thirty-six dollars on a new car of his own.

The question put up to the jury is thus whether a man who had to borrow money to pay off the price of a car bought on the instalment plan would be likely to lend another more than the whole amount required to rid him of a monthly obligation and interest charges.

### GOVERNMENT'S REMORSELESS PRESSURE

The third is that romantic trip five hundred miles into New England to see "She Stoops to Conquer." The landlady of the inn where Chambers says he and the Hisses stayed has testified that she has no record of their ever being there. Chambers says he took the train from Baltimore, joined the Hisses in their car in Washington, and drove back to Baltimore on the way up to New England. But Hiss has insisted all along that he was on vacation more than eighty miles and a ferry ride away in a town on the Chesapeake Bay known as Chestertown, Maryland.

In this trial he has proved, with a bank-deposit slip, that he made a deposit in person in Chestertown on the morning Chambers is supposed to have picked him up in Washington.

All this may tend to show a reasonable doubt, among reasonable men, of Chambers's other testimony. But now Hiss is at the mercy of the Government's cross-examination, and the Government can afford to shrug off the countless discrepancies in the memory of ten-year-old Kesseloff-23276 Hiss to discredit the unabashed corroboration of the documents and the typewriter that was admittedly his.

Kisseloff 23277

# JULIAN WADLEIGH ADMITS HE PASSED ON STATE PAPERS

Copy in PF 117,0

## Dr. Jessup Praises Alger Hiss

From Alistair Cooke

NEW YORK, DECEMBER 11.

After the F.B.I. typewriter expert had testified that all the Government documents except one were done on Mrs. Hiss's typewriter, the Government called Julian Wadleigh, the former State Department economist who has confessed to passing some documents to Chambers. The defence is obviously mightily concerned to prove that he was the courier of some of the Chambers papers. And the Government is just as insistent to show that he was not.

Wadleigh is by all odds the most fascinating witness that has appeared to date, not only because of a subtle fencing mind but because he is to-day a walking symbol of the shattered gallantry of the idealistic Left, a fugitive from the ruins of the Popular Front and the classless society, the earnest fellow-traveller who must now pay for the pride he felt a dozen years ago in trading in the technical loyalty to a constitutional oath for the true glory of being in the advance guard of the resistance to Fascism.

To the Government, of course, he is just another misguided Leftist turned useful informer. To the defence, it would appear from Mr. Cross's close mimicry of Mr. Stryker's outraged indignation, he is a wretched traitor saved from his deserts by the Statute of Limitations. Mr. Murphy handled him forgivingly, and Mr. Cross contemptuously but with enough vigilance to convey how priceless to the defendant would be his breakdown or even a momentary slip. But he was subtly adamant.

### NO RECOLLECTION

Mr. Murphy had him look over all the papers and, later Mr. Cross made him scan them one by one. But he was sure that he had no recollection of them, that although some of them (notably about economic affairs in the Far East, and also, especially, a German trade agreement) were about matters that concerned him, they would have come across his desk in the form of reports and not in the form of dispatches and cables. Anyway, he never saw these typewritten copies and never passed anything copied outside the department.

Mr. Murphy reminded him of an official mission to Turkey that began on March 10, 1938, and thereupon called off a list of the Chambers papers "that would put you somewhere out on the ocean." Mr. Murphy was confident enough of his quarry to get from him what amounted to his maximum concession to the defence—that he "might have seen the originals of some and might have handed over originals to David Carpenter or to Chambers, but never these copies."

Mr. Murphy then had him strengthen Mr. Murphy's impression that he never, at his time in the State Department, had a room to himself, and would have found it impossible, what with the security rules and Miss Lincoln's watchfulness, to sneak documents out of Hiss's office.

Wadleigh confirmed Chambers's description of Colonel Bykov in most particular

"I thought I was doing the right thing according to my principles at that time."

"Well, you knew you were violating your word, didn't you?"

"Technically, yes."  
Mr. Cross kept up this running fire, but Wadleigh was very cool in the knowledge that it was being directed at a straw man. Mr. Cross put to him the most sacred challenge of our day. "Did you believe in the American way of life?"

### "PASSED PAPERS"

Wadleigh put his index finger to his cheekbone and thought a moment. Mr. Cross took a pace forward, waiting to hear the trap spring. "Substantially I did."

After that Mr. Cross used the phrase "passed papers." He came back to the documents. He challenged Wadleigh to produce a single sharp independent recollection of one of the four or five hundred papers he admitted passing. Wadleigh stalled by saying they were usually economic reports and he selected especially documents about Germany and Japan. But Mr. Cross wanted him to show that his memory was bad on the papers he passed and suspiciously good on the ones he didn't. Wadleigh would concede nothing.

"Do you have," hammered Mr. Cross, "a distinct recollection of one single document?"

Yes, he remembered a telegram from Bullitt in Moscow, for no sensational reason at all.

Next Mr. Cross tried to shake his story that he took only documents that came to his desk. Did he not at conferences go out of his way to keep his ears open?—"That's something one does naturally."

Mr. Cross took a breather by asking to bring in a defence witness who would soon be out of the country. It was Dr. Phillip Jessup, Ambassador-at-large to the United States, who is about to leave on his mission to China. Mr. Murphy tried to hint his dark affinity for various Liberal organisations, and Mr. Cross promptly deflated this attack by having Dr. Jessup mention some of his old colleagues on one board—the Institute of Pacific Relations: such unlikely subversives as Newton Baker, Henry Luce, and the president of General Electric. Mr. Cross got what he wanted, which was that Alger Hiss's reputation for loyalty, integrity, and veracity was "good."

Then we were back to a final fruitless baiting of Wadleigh. Mr. Cross shot at him many a colourful phrase from a series of newspaper articles. Wadleigh wrote after the first trial. But by now Wadleigh's tolerance of an ageing lawyer was all-embracing. Mr. Cross tried to wring his withers by making vivid the anxiety of the years his crime had gone undetected. "During all that time you were on pins and needles, weren't you?"

Wadleigh ran his hands through his shock of hair. He looked kindly at the agitated Mr. Cross. "Kisseloff-23278" about this whole thing, say.

"During all those ten years?—Oh no. Maybe for a year or two, but after a while I pretty much stopped worrying."

dominant.

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Wadleigh confirmed Chambers's description of Colonel Bykov in most particulars, but insisted that he had an arm missing, where Chambers saw both arms intact. Yes, he too had received an Oriental rug as a New Year's present at the end of 1936.

Mr. Cross stood up and gave him one of the wariest scowls in the Stryker repertoire. "When did you first steal any papers from the Government of the United States?"

Wadleigh stretched his legs, folded his arms, and knitted his shaggy brows. If this was to be a semantic battle he was ready for it. "When you say 'steal,' I take that to mean the procedures that I described. . . . I believe it was first when I was in the Department of Agriculture."

"And you started immediately to steal papers?"

"I passed over papers."

"You keep saying 'passed.'"

"Well, I just don't think that verb is very descriptive."

"Give me the Oxfordian version."

#### THAT "OXFORD" ACCENT.

This dastardly inference brought a frown to the face of a visiting English judge, but Mr. Cross was merely being playful at the expense of Wadleigh's education and his accent, which, slavishly characterised here as Oxford, is in fact, like your correspondent's, a de-racinated mid-Atlantic, which sounds tough in England and prim in the United States.

Wadleigh blinked, good-naturedly through his thick glasses and ignored it. After shuffling back through the record of Wadleigh's travelling youth (his father was a parson in various American churches in Europe), Mr. Cross got from him that at one time he had not been in the United States in twenty-five years and yet when he entered the Government service he took the usual oath of office.

Mr. Cross read it in solemn tones and then fired at him: "After you stole papers you knew you were a traitor to the United States?"

Wadleigh's rather restless, bloodshot eyes steadied themselves on Mr. Cross. Very levelly he said: "No."

"You knew these papers were to be turned over to the Communist party?"

"Yes."

"You think you were performing a patriotic service to the United States?"

That's something one does naturally.

Mr. Cross took a breather by asking to bring in a defence witness who would soon be out of the country. It was Dr. Phillip Jessup, Ambassador-at-large to the United States, who is about to leave on his mission to China. Mr. Murphy tried to hint his dark affinity for various Liberal organisations, and Mr. Cross promptly deflated this attack by having Dr. Jessup mention some of his old colleagues on one board—the Institute of Pacific Relations: such unlikely subversives as Newton Baker, Henry Luce, and the president of General Electric. Mr. Cross got what he wanted, which was that Alger Hiss's reputation for loyalty, integrity, and veracity was "good."

Then we were back to a final fruitless baiting of Wadleigh. Mr. Cross shot at him many a colourful phrase from a series of newspaper articles. Wadleigh wrote after the first trial. . . . But by now Wadleigh's tolerance of an ageing lawyer was all-embracing. Mr. Cross tried to wring his withers by making vivid the anxiety of the years his crime had gone undetected. "During all that time you were on pins and needles, weren't you?"

Wadleigh ran his hands through his shock of hair. He looked kindly at the agitated Mr. Cross. Let's be mature about this whole thing, he seemed to say.

"During all those ten years?—Oh no. Maybe for a year or two, but after a while I pretty much stopped worrying."

Kisseloff-23279

## Typewriter Expert Finds the Hiss Machine Guilty

From Alistair Cooke

NEW YORK, DECEMBER 9.

The Government has stripped away most of its credibility witnesses and come down to the core of its case—the expert proof that all the documents but one were typed on a typewriter the Hisses had owned; and the positive conviction of Julian Wadleigh that whatever documents he did or did not pass to Chambers he never saw any of the wad of easel exhibits which the Government had from Chambers and which Chambers says he had from Hiss.

In her last hour on the stand Mrs. Chambers had very little to fear from Mr. Cross, who seems like a conscientious parson to write his sermon way ahead of time and sticks to the text no matter what. He confronted her with pages of Baltimore testimony that was clearly at odds with her present recollection, but every witness in this trial has been through all this before and has learned by now that the difference between present and "then" recollection is not only human but legal.

She deepened the impression she had left of unquestioning devotion to her husband by proudly admitting that when he was away from his farm last summer she hid in a chicken-house the 1935 false passport the defence has made so much of. Why did she do this?—"For safe keeping from you folks and the Communists." Asking the question again, Mr. Cross left himself wide open for a galling definition of "you folks." She did what she was told, she said, and put it in "a safe, careful place . . . lest the house be searched by either the Hiss people or the Communists." She left the stand in triumph, making a little bow to the judge and thanking him for being "most-kind."

### EASELS REAPPEAR

Now there was an important bustle at the Government table, as Mr. Murphy beckoned various helpers to move in front of the jury four big easels. In the middle were enlargements of the admitted Hiss standards, letters, and memoranda Mrs. Hiss allows she wrote on her Woodstock typewriter. On the left was the whole display of the 47 Government exhibits put in evidence by Chambers in Baltimore. And on the right were the enlargements of the miniature film he took from the pumpkin, and next to them the State Department originals of these filmed copies.

Into the court came a vigorous, dark-haired man, carrying a pointer. He was Ramos Feehan, the F.B.I.'s typewriter expert. And he soon began to indicate the tell-tale characteristics of the Woodstock typewriter with all the aplomb of a lantern lecturer much in demand. He pointed smartly to ten defects or irregularities in the typeface of the typewriter that Mrs. Hiss used—a small "g," an "e," an "i," an "o," a "u," a "d," an "a," an "r," an "l" and a capital "A." All these printing faults he showed to be in the Baltimore documents and on the microfilm blow-ups.

He explained fluently, with many a flourish of the special jargon of his trade, his conclusion: There was a group of seventeen papers done in "a single typing run," there were exact photographic copies of State Department originals, there were mixed groups of copies from State Department originals done at the same time, and other copies of the documents done in other typing runs. The miniature films were carbons done from the same ten stenographers who had prepared the State

Department circulating copies. There was no doubt whatever that all the Baltimore documents except one had been done on the Woodstock typewriter.

Mr. Cross came in for the cross-examination obviously hoping to invest this exception with all the reasonable doubt it would bear. It was done, Mr. Feehan concluded, on a 1936 Royal machine in very good condition. Mr. Cross seized on this to ask if he knew what machines the Far Eastern section and the Trade Agreements sections of the State Department were using in the first three months of 1938 (the defence is trying to say that the documents went to Chambers partly from Wadleigh and partly from an unidentified "confederate" then in the Far Eastern division). Mr. Feehan did not. If he had access to those typewriters could he tell if one of them had typed this one document?—He might.

But then how about the watermark, Mr. Cross cried, was not that a Government watermark on a strange kind of paper?—It was undoubtedly a Government watermark (borne by none other of the papers), but he thought the paper was the sort of onion skin you could pick up in any stationers. Could it not be a Japanese or other foreign make?—Mr. Feehan doubted it and, parrying Mr. Cross's intimation of what a chemical analysis might show, replied he thought Mr. Cross meant a fibre analysis. Well, hadn't the paper been described as a Japanese tissue?—"If it has, it is an erroneous description."

### THE RIGHT OF DISQUISITION

Mr. Feehan, wallowing in the almost boundless freedom the good Judge Goddard allows to every witness, lectured for a while on the process—from the vat to the stenographer—of paper-making. Mr. Cross bore down with puzzling zeal on the possible foreign manufacture of this tissue, but Mr. Feehan was not to be shaken from his belief that it was "just a sulphite paper."

Mr. Cross appeared to get no farther than the welcome admission that one paper at least was not typed on the Hiss typewriter. He stressed that on another a file number in the margin of the State Department original was not on the copy. To Mr. Feehan this meant simply it had been copied before it went at last to the file room. Another document, Mr. Feehan agreed, had "some shorthand characters preceding the name Hawkins," the sender. And yet another had a handwritten addition of two letters "s," each shaped differently. Mr. Feehan would not agree, though, that there was any proof they had been done by a different person, one using ink, the other pencil.

Mr. Murphy lounged through all this with little discernible anxiety. There are still 43 Baltimore documents at least that the defence does not deny were done on the Hiss typewriter. Unless Mr. Cross can show that the typist was **Kisseloff-23280** Mrs. Hiss, the Government has the remembrance of the last jury's ultimate obsession, which was the identity of the person who typed the unchallenged mass of the documents. The defence contends the typewriter went directly from the Hisses to a family of illiterate Negroes.

The immaculate document known as "Baltimore Ten" may be free, but the others abide our question. And the jury, which had sat slumped and immobile through all the discrepancies of family memories, was galvanised by Mr. Feehan's magic leaning pointer into leaning tensely forward, their eyes swivelling from easel to easel like the fans at the last set of a Wimbledon final.

# UNDERGROUND AGENTS IN "NEW DEAL" WASHINGTON

## Hiss's Job "to Mess Up Policy"

—Whittaker Chambers

From Alistair Cooke

NEW YORK, NOVEMBER 30.

At the end of yet another day of checking his current recollection with the wads of testimony he has given over the last decade, Whittaker Chambers visibly sagged. But though the jury yawned, the spectators were close to coma, and the Judge many times listened to the dialogue with his eyes closed, sitting bolt upright like a death-mask of justice on a Federal building, the mind's eye of Chambers never tired.

Once in the twilight, when Mr. Cross asked him if he had ever admitted, to the F.B.I., to the State Department's security officer, or to Assistant Secretary of State, Mr. Berle, being a receiver of stolen documents, he winked his heavy eyelids and replied with elaborate restraint:

"Mr. Cross, I have testified for a very long period of time and been asked a great many involved and provocative questions. It is very difficult for me to remember the sequence of my answers."

Well, then, said Mr. Cross, did he want to give a different reply without characterising the questions? He did not, he just wanted to say that at all times there were controlling circumstances that might sharpen or qualify his memory of previous answers.

It was indeed an interminable day of checking and rechecking again the chronology of his meetings and motor trips with the Hisses, the furnishings of the Hiss houses, the contents of the envelope that contained the disputed State papers, the alleged loan to buy an automobile, the emotional effect of his brother's death, the circumstances under which he swore to a false name for the 1935 passport, and even the fertility rate of the single pumpkin vine which bred the container for the microfilm strips.

### ONE EXTRANEIOUS PAPER

Mr. Murphy, coming in for the redirect examination, started thunderously in the morning by asking:

"On your oath and before God, Judge Goddard, and this jury, did you say that Mr. Hiss passed Government documents to you?"—"I did."

Mr. Murphy brandished all the documents except the one known as Baltimore Number Ten, which Chambers thought yesterday he might have had from one Harry Dexter White.

"Are these they?"—"They are." And these four handwritten papers, were they given to him by Hiss?—They were.

By the way, Mr. Murphy inquired, dropping his voice solicitously, "Are you having any trouble with your eyes?"

"Yes, I am; I need glasses."  
"I have seen you rubbing them. Has that anything to do with glasses?"  
"No, that has to do with fatigue."

Having thus prepared the way for making any more of Mr. Cross's explorations of old testimony seem like a petty form of torture, Mr. Murphy went into the circumstances in which the Washington Communist underground was supposedly organised in the nineteen-thirties. This was all in the report Chambers had privately made to Ray Murphy, Security Officer of the State Department, a document resolutely excluded from the last trial by the ready outrage of Mr. Stryker and the consent of the Judge. After a session in chambers with counsel this morning Judge Goddard finally agreed to let Mr. Murphy read it aloud, which he did very meaningfully to an attentive jury.

It explained that to the Communist party "the reforms going on in the Administration" of the New Deal provided a favourable climate for an underground of young Government workers who were more or less sympathetic to the party's policy, which was then dominated by the conception of the Popular Front. This seemed at the time to offer a better source of access to State documents than an underground recruited exclusively from party members. Consequently, according to Chambers, the party enlisted a fine ambitious crop of young New Dealers, including Harold Ware, in the Agriculture Authority; Nathan Witt, once attorney for the National Labour Relations Board; Lee Pressman, once general counsel of the C.I.O.; last but not least Alger Hiss. Chambers here described Hiss's function as "never to make contacts. . . His job was to mess up policy." This logically led into the now celebrated, but unpublished, report of the conversation Chambers had with Adolph Berle some time around the beginning of September, 1939. What made Chambers go to Mr. Berle at that time? Chambers quietly replied, "The signing of the Moscow-Berlin Pact"—the first fashionable or objective reason Chambers has given for his otherwise very personal backslidings into the normal life of a good citizen.

This document, too, finally got itself read. It is an abracadabra of hastily typewritten notes without much rhyme or syntax. But it listed at random another roll of alleged conspirators and characterised Alger Hiss as "assistant to Sayre, member of Communist party, active Baltimore boy."

Mr. Murphy also waved some yellow sheets of paper, in Harry White's handwriting, which Chambers said for the first time had also been found in the big dirty envelope he handed to his lawyers last year, and whose contents are meant to be the required corroboration of Chambers's main accusation against Hiss.

### F.B.I. BEGAN IT

This was the pith of the day's testimony. But Mr. Murphy was artful enough to imply that Mr. Cross was making great mysteries out of several easily explained movements and misgivings of Chambers.

Did he ever in 1936, '37, or '38, know anybody in the Far Eastern division of the State Department?—No, he believed he did not. When he went to visit the Hiss house at Volta Place was he ever interested in the surrounding terrain?—No, he was concerned with getting to the house (this was meant to dissipate any suspicion the jury might feel about Chambers's vague attention to the architecture and local colour of the neighbourhood).

And as for his having informed on Hiss to the F.B.I., "prior to November, 1938, did you ever go to the F.B.I." before they came to him?—He did not.

Mr. Cross came up for his recross-examination, and tried without success to get Chambers to "reconstruct" his testimony of yesterday. Chambers was even more indifferent before, and when Mr. Cross asked him if he did not know there was a book the State Department sold to the public which listed the names, salaries, and histories of all its employees, Chambers came in archly with a typical thrust: "Yes, I do, Alger Hiss once procured a copy for me." Just before the ragged end, Mr. Cross squeezed out of him the concession, if anybody cares, that the Hisses knew him as David Breen.

Kisseloff-23281

# MR. CROSS SCORES A POINT AGAINST MR. CHAMBERS

## The Source of the "Hiss" Papers

From Alistair Cooke

NEW YORK, NOVEMBER 29.

Mr. Claude Cross, defence attorney for Alger Hiss, spent another whole day wrestling catch-as-catch-can with Whittaker Chambers and his memory. He had only variable success, for Chambers has adopted a stagger-proof stance, which implies that while he was a Communist, there was no honour in him, but now he has become a God-fearing man his memory is as human as anybody else's.

Accordingly, he could afford to feint and tumble with Mr. Cross in a spirit of good clean fun, which he did with the loving roguery of a conscientious mother bear.

All day long the cheerful responses came back at the dogged Mr. Cross: "That is correct," "That is also correct," "I don't recall," "It may well have been," "It may well be you're right."

How much did he earn in the Government job that was taken to prepare him for his break with the party?—He couldn't recall.

Would it be about two thousand dollars a year?—He believed that was right.

Did he not say before the House Committee it was about six thousand a year?—Yes, he did.

Had he not said that Hiss was "a dedicated and disciplined Communist for some years"?—So he was, and so he had said.

But before the committee did he not say he knew this only on the word of J. Peters?—That was correct.

What colour was the clapboarding on the 30th Street house?—He had forgotten, but it seemed to him it was grey.

Did he not tell the grand jury it was white?—He presumed he did, he simply wasn't clear about it.

Was there a police station near that same house, and an institute for the deaf?—He simply didn't recall.

How about the furnishings at Volta Place (the house where Chambers says he picked up the pilfered State documents from Hiss)? Could he remember them?—He believed he could remember some of them.

But didn't he testify in Baltimore that he couldn't remember them and tell the House Committee that the only thing he recalled from Volta Place was a leather cigarette-box with gold tooling on it?—He believed he did.

Chambers has already testified to copious memories of the Hiss furniture and domestic geography. It is evidently the defence's tactic to try to suggest he has memorised these details from the now huge accumulation of testimony. But Chambers is quite unperturbed. The fact is he knows now, and he reciprocates with the implied suggestion that he has had more time to recollect.

### TESTS OF CHARACTER

Mr. Cross abandoned the Hisses for a time and tried to sharpen some general reflections on Chambers' character.

Where did he get the money to buy a cottage in the spring of 1937, subsequently his so-called hide-out after he had left the party?—He got it, he says blandly, from his mother.

And where did he get the money for the house in Baltimore purchased in summer the next year?—From his mother.

And, how about the car bought in November, 1937, for which the Hisses supposedly lent him \$400?—Did you ever pay it back?—"I did not."

Did you ever offer to pay it back?—"I did not."

"That," said Chambers, "is what I am testifying now." But, certainly, he lost his fear and stayed to dinner. And later Hiss gave him the famous rolling-pin as a present for his daughter.

"What did he do with it?—He threw it away."

"You didn't hide it in any pumpkins, did you?" Mr. Cross asked in a puckish moment.

Chambers moved his bulky body, coughed slightly, and composed his chubby hands, disdaining to answer.

### POINT TO MR. CHAMBERS

There was an awkward pause: The judge wondered if Mr. Cross had meant that as a serious question. Mr. Cross gasped out a flustered syllable or two. The judge said: "I don't think lawyers should ask foolish questions just because some of the witness's answers may be inappropriate. . . . This case will take long enough as it is."

Mr. Cross apologised and Mr. Murphy, at the Government table, filtered a chuckle through his walrus moustache. At the very end Mr. Cross at last got down to what the Government has challenged him to disprove as "the immutable evidence of espionage"—namely, the documents. He showed Chambers one paper and got from him the admission that it had a watermark different from all the other papers.

Had he not previously testified he got this paper from Hiss?—He had.

And now what did he think?

To everyone's astonishment Chambers, leaning over sideways to get a better look at it, imperturbably replied, "I think it's the sort of thing Harry White may have given to me."

Mr. Cross shuffled nearer to pin him on this unique admission—the first time Chambers has said that any of the incriminating documents came from anyone but Alger Hiss. It is only one paper, admittedly different from the others, but to Mr. Cross it was a great beginning.

He wanted to be sure Chambers would admit this departure, and he did. And Harry White was dead?—That was also true.

Hot for the first certainty, Mr. Cross whipped out the developed microfilms that Chambers hid in a pumpkin. He got him to agree that because of the unbroken run of serial numbers on each frame these two films embodied one photographic operation. They represented documents 11 and 12 in the Government's main exhibit.

"If you knew who gave you one of the 58 papers photographed in those films you would know who gave you all?"

Chambers said there was no question about it.

Now Mr. Cross turned over the testimony Chambers gave to the House Committee. Had he not said there was another active source in the State Department—Julian Wadleigh, "and it is possible some of these documents came from him"?

Mr. Cross closed his book. "Were you asked those questions and did you give those answers?"—"I did."

"Your witness," snapped Mr. Cross and sat down.



How about the furnishings at Volta Place (the house where Chambers says he picked up the pilfered State documents from Hiss)? Could he remember them?—He believed he could remember some of them.

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For a time Mr. Cross was ferreting all over the place, to the general confusion of the press and the evident indifference of Chambers.

Did he tell the House Committee that Hiss had a mincing walk?—He believed he did.

In high school was he (Chambers) poor in mathematics?—That was right.

Chambers was modulating his responses now with obvious Christian patience, and when Mr. Cross harried him to itemise the work he was doing to keep himself going after he left the party Chambers sweetly replied, "What I was not doing was itemising my daily activities, Mr. Cross. My main occupation was to support my wife and family."

#### PARTY CHAMPAGNE

This sort of by-play filled most of the afternoon. Chambers had at the first trial described as "loosely a Christmas occasion" a party at his house to which the Hisses came. In Baltimore he had called it a New Year's Eve party to let in 1938. He would settle for a New Year's party.

Wasn't there, Mr. Cross darkly suggested, some champagne drunk and he and his wife got sick?

Chambers sighed, as he does before sounding off with some irony or the connoisseur's regretful note, and said: "No, some American champagne was brought in and I got sick."

He on refusing to deny all Mr. Cross's masterly calendar of dates.

By the way, when he came to see the Hisses, for what Chamber says was the last time, at Christmas, 1938, did he ring the bell?

Immensely bored with bell-ringing and door-knocking (even the judge had wondered once if he hadn't been over all this), Chambers replied: "I do not recall whether I knocked on a door ten years ago."

Well, had he not testified that on that occasion he was afraid of an ambush and feared Alger Hiss might assassinate him?

anyone but Alger Hiss. It is only one paper, admittedly different from the others, but to Mr. Cross it was a great beginning.

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# WHITTAKER CHAMBERS CONFESSES

## HIS SINS

### Why He Had to Challenge Mr. Hiss

From Alistair Cooke

NEW YORK, NOVEMBER 23.

Whittaker Chambers, the Government's chief witness in the first and now the second perjury trial of Alger Hiss, is a little squat man when he rolls into court. But once on the witness stand and required to sit and think he is a big, easy shambling man. For he exquisitely is at home with the thinking process and, under the sympathetic coaxing of Mr. Murphy, the Government counsel, he rehearses his story with the well-timed éclat of a professional mind reader.

We heard again the persuasive domestic chronicle of his life with the Hisses, the excursions, the nice separation of family feeling and conspiratorial hard work. He recalled with no effort his many appearances before the House un-American Activities Committee, the grand jury, and his first confrontation of Hiss in a room in a New York hotel to which the House investigators brought him. Tolerantly, he repeated Hiss's real or pretended denial of knowing him, Hiss's crucial examination of his teeth, and Hiss banging the table and saying, "I know him, he's George Crosley."

With a sigh he told how Hiss had then asked him if he ever lived in the Hiss apartment on Twenty-eighth Street in Washington, how he had replied that he had, how Hiss had added, "Did you ever lease that apartment from me?" and Chambers had said he had not. Hiss asked him how he reconciled those statements, and Chambers recalled his famous sad line: "Because you and I were both Communists, Alger."

#### MR. HISS'S CHALLENGE

Chambers lifted a bored eyebrow; "Mr. Hiss challenged me to say without immunity that he had been a Communist," and he made no comment at the time. But he said it out loud over a national radio network and Hiss had started a libel suit.

"What is your defence?" asked Mr. Murphy. "It's true," drily replied Chambers.

"And what is the state of that action?" "It is in abeyance pending the result of this criminal trial."

Then he told of his long examination, from September of last year to March of this, by Mr. Hiss's lawyers and retold the secret agreement with the Hisses for the delivery of pilfered documents. They had had a conversation, the substance of which was that Mrs. Hiss should do the typing, since Mrs. Hiss always became restless when she was out of underground work and this would give her an opportunity to satisfy that need she felt.

Did there come any time in the Baltimore examination when he was asked to produce papers, documents, some tangible proof of this conspiracy?—There did.

#### DOCUMENTS IN BATHROOM

There was now evidently no escape from the final step he was loath to take. He went to Brooklyn to the home of one Nathan Levine, who went with him into the bathroom, "reached into an old dumb-waiter shaft and brought out an envelope, very dirty," and handed it to him. Chambers took it into the kitchen, where Levine got a broom to clean up the bathroom mess. And Chambers looked into the envelope and there found the documents and three sections of the film the subsequently introduced into his Baltimore deposition. He went next day to his lawyer and told him what he had found. On November 17 last year he offered them in evidence. There were three or four handwritten notes in Hiss's handwriting and 45 pages of typewritten documents "done by Mrs. Hiss." Some of the film he kept in his house (the pumpkin papers), to which he later led the Federal Bureau of Investigation.

Why did he hand those papers to his lawyer, what was his motive?—This is

what everybody asks, and the Court stirred as Chambers locked his thumbs, lowered his eyes from the ceiling (which is their normal point of rest), and said his purpose was—

"To destroy or paralyse the Communist conspiracy within the Government, and to do as little injury as possible to the human beings involved . . . and with the grace that has been given me to come out into a new life."

"Now you were forced into the position where you had no choice but to produce the documents?"—That was correct, said Chambers, and he stared far out into the courtroom with the quizzical, melancholy blue eyes that are his best feature.

This was the man who, in Mr. Murphy's eyes, "just couldn't bring himself" to betray a friend. It is the most plausible motive the Government has offered and Mr. Murphy wanted to have it more finely stated; by a man who everybody agrees is no slouch with the English language.

Well, then, Chambers would brace himself for the tragic necessity. He sighed:

"In exposing a conspiracy some damage is inevitably done . . . but there is a distinction in my mind between the ultimate perfidy of espionage and merely exposing the people as Communists."

He paused and slowed his speech. "There are two kinds of men. What one kind wishes to believe is that God is a god of justice. There are others who believe that God is a god of mercy. And I am so constituted that I will always range myself on the side of mercy."

As he came to the end, his eyes were wet, but he did not touch them. He looked ahead, the cleansed penitent, ready for any fate society might will on him.

#### PROVING CHAMBERS'S GUILT

The Government is sparing no pains this time to admit the guilt of this shriven soul. Mr. Murphy conscientiously put in evidence the "blasphemous play" that got Chambers into trouble at Columbia. In fact, so that there should be no doubt about its impieties, he read it aloud. It is a short and effective irony, in the main, contrasting the mundane and slightly ribald conversation of a couple of centurions guarding the tomb of Christ with the Lord's waking awareness of His own holiness.

Outside this courtroom it might be identified as an affecting passage from Anatole France's "Procureur of Judea," but the defence shouts that it is an atheistic horror written deliberately to outrage Christian folk. And Mr. Murphy is only too willing to take the same view.

Before he was through Mr. Murphy was also alert to show that the Government knew all about the new circumstantial titbit the defence had fished up during the summer: a passport application, filed in the name of which Chambers made intention of sailing to England and there linking up with the Communist underground under cover of an active church membership.

Mr. Murphy asked him about this arrangement, made allegedly with the Hisses in 1935, whereby while Chambers was abroad his wife and child were to stay with the Hisses. "You got that passport under the name of David Green, didn't you?" That was correct. He got the false birth certificate from J. Peters, the head of the American Communist underground.

"By the way," asked Mr. Murphy artlessly, "did you ever go to Europe?" No, the passport was never used.

Mr. Murphy casually asked at another point whether Chambers had ever come to New York that year to meet a Colonel Lamb.—Yes, he had.

"You hired a moustache then?"

"That is correct."

"He knew you with that moustache?"

"Yes, he did."

This was a trivial item at the time but to the defence it has come to represent the symbol of the falseface of Whittaker Chambers. And the next day, in cross-examination, Mr. Cross was to spend two hours, a doubtful investment of artillery, on just this passport, and this upper lip.

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# LIFE IN NEW YORK "COMMUNIST UNDERGROUND"

## The Remarkable Memory of Mr. Chambers

From Alistair Cooke

NEW YORK, NOVEMBER 22.

Mr. Cross wound up his opening for the defence in the second Hiss trial by saying that the microfilm papers rescued by Whittaker Chambers from a pumpkin on his Maryland farm came to Chambers directly from Julian Wadleigh, a self-confessed Communist courier in the trade agreements division of the State Department in the mid-thirties. When he had done, the door behind the witness chair opened and in came, inevitably, Whittaker Chambers himself.

If there is anything at all in the general subjective feeling that the Hisses look older and grayer, Chambers, by contrast, is altogether more spruce and confident and ruddy. But then he is a farmer and would understandably retain an outdoor bloom long after city folks have gone into hibernation. Also, there was no one so formidable as a tryker in sight! And he settled himself very amiably into the witness chair, crossed his short legs, and was painlessly encouraged by Mr. Murphy into demonstrating once more his flawless memory for dates, conversations, and the minutiae of his life—and the Hisses'—during the mid-thirties.

### NOT SO SURE ABOUT 1949

Yesterday he was a little less sure of his recollections of 1949, which, of course, he has hardly had time to digest. But when he has to recall anything to do with the Washington Communist conspiracy of the nineteen-thirties, and Hiss's alleged embroilment in it, he endless rehearsals before the House committee, the Baltimore hearing, and jury, and the first trial have made him able to toss off the sort of usual, consummate performance that you expect from a touring actor manager who makes a profitable living out of the most popular Shakespearean rôle of his youth.

So once again, with great and deadly good humour, he told of his boyhood and schooling and college difficulties, drawing his eyes up to the ceiling to call nothing that was ever likely to harm him. Since the Government has decided to take the sting out of the defence counsel's discovery of his injuries, Chambers acquiesces in the memory of his youthful shame as the necessary price of his later penitence. Yes, he was expelled from Columbia, he had no religious training at home, here, indeed he picked up the prevailing attitude of "sceptical indifference." Yes, he lied to his Dean because he had a very desire to study history. And certainly he took a matter of fifty odd books from the university library which never returned.

### INTRODUCTORY READINGS

He then went again into the long ritual of his Communist labours, for which he had been prepared, and induced by introductory readings in the works of the Webbs, Tawney, Whitehouse, the Guild Socialists, and D. H. Cole. He had edited the "Daily Worker" and the "New Masses" and contracted a "Communist marriage" which was not a legal marriage. He subsequently had a Christian marriage in 1931 which has stayed happy ever since.

When he joined the Communists he was "politically naïve" and refused to use an alias, but he, nevertheless, was in a trustee membership of an apparatus and, being something of a German scholar, he established contact with members of the "underground" doing microfilm and liaison work. (Some of this evidence was disclosed in the first trial.)

Chambers came at last to a pretty direct retelling of his alleged professional conspiracy with Alger Hiss. He is allowed to enlarge upon this to the extent of saying that Hiss was so confident a Communist as long ago as 1935 that he asked the party's permission to take his job in the Justice Department and subsequently to move into the Department of State. Chambers also managed to get in, at Judge Kaufman had prohibited in the first trial, that Hiss wanted to turn in an old Ford car to a poor Communist organiser. One J. Peters, chief of the Communist underground, (he was later deported) had reluctantly agreed. He told of innumerable meetings with Hiss or the Hisses in all their Washington homes and of his occupancy for a couple of months in 1935 at

Hiss apartment on 28th Street in Washington, with "no pay involved." He told that Hiss had driven to Baltimore from Washington and helped him move "the baby's collapsible bathtub and a high chair."

Chambers described the layout of the various Hiss homes and mentioned that he particularly remembers the third floor of their P Street house because it was there that he had done some photographing of documents. In the fall of 1936 he had talked with Hiss about Colonel Bykov, a Soviet agent, and subsequently introduced them in a New York restaurant, where Hiss agreed to transmit to Chambers documents he would pilfer from the State Department.

### "PRESENT FROM SOVIET UNION"

Around this time Chambers got money from Colonel Bykov to purchase four Oriental rugs in New York, one of which he gave as a present to Hiss from the Soviet Union "in recognition of work he had done for the American Communists." He had later been shown this rug by an admiring Hiss in a cupboard of one of the Hiss homes.

We heard again about the weird trip across the Brooklyn Bridge and into Chinatown, where it was impressed upon Hiss that "the Soviet Union was in danger from the rise of Fascist Powers and that Mr. Hiss could help if he would get from the State Department documents particularly concerning Germany, Italy, and Japan. Hiss agreed to do this and it came about that Chambers went at intervals of about ten days to the Hiss home on Thirtieth Street in Washington, regularly picked up a bundle of papers, took them and photographed them in Baltimore, and returned them to the Hisses in Washington around midnight each time.

They kept up this system until the middle of 1937, but it was a slow system and Chambers told Hiss he wished to have new papers brought home every night and have some of them typed and some of them paraphrased. Mrs. Hiss agreed to do the typing. Thereafter Chambers used to turn a week's accumulation over to a certain "Felix" in Baltimore for photographing. The papers came to include several handwritten notes made by Hiss about documents that for one reason or another, he was unable to steal.

Chambers recounted this with only an occasional comfortable misgiving about actual days and months. Without any change of tone he told about his slow dissatisfaction with the Soviet Union ("I considered myself a better Communist than Stalin") and his final break with the Party in April, 1938. He was already preparing for this break in the autumn of 1937, and judiciously got a research job with the Government. He borrowed \$400 from the Hisses to buy a car in 1937.

### THE ROAD TO REGENERATION

After April, 1938, he failed to keep an appointment with Colonel Bykov and started on the road back to his regeneration as a God-fearing man. He did some translating, and about 1940 bought a farm in Maryland. He went eventually on to the staff of "Time," became a senior editor, and henceforth lived a blameless life.

But not so, apparently, the Hisses. As late as Christmas, 1938, he tried to get the Hisses to break with the party but failed. It was then that Hiss gave him for his daughter the pathetic present of "a child's rolling-pin." He was baptised an Episcopalian in 1940, and became a Quaker the following year. By August, 1939, he was worried about the threat of the Communists to the American Government. He voiced his fears to Adolph Berle, then an Assistant Secretary of State, and later talked with the Federal Bureau of Investigations and the security officer of the State Department.

As if Hiss were not already damned enough, he wandered through odd memories of various excursions, and remembered a new one. It was a trip in Pennsylvania in 1936, which "I distinctly remember because at a red light in Norristown, we saw a policeman carrying an Easter lily, and that pleased Mr. Hiss."

PPS-050 Bykov

Kisseloff-23285

# CHAMBERS CONTINUES TO ADMIT HIS ERRORS

## Defence's Tactics in Cross-Examination

From Alistair Cooke

NEW YORK, NOVEMBER 24.

Mr. Claude Cross, the chief defence attorney in the perjury trial of Alger Hiss, has kept Whittaker Chambers on the stand for two and a half days. And there is no end in sight, no end in time, and no discernible end in strategy. For whereas Mr. Stryker in the first trial hailed every casual lie, every sordid anecdote, every discrepancy in the Chambers testimony as a strike of purest gold, Mr. Cross laboriously weighs each ounce of the huge deposits of the Chambers record and seems to leave it up to the jury to decide what is gold-dust and what is sand and gravel. His strategy, whatever it is, is far too subtle for the press, though the members of the jury may have detective insights that belie their visible boredom.

Before the cross-examination started, Mr. Cross called three witnesses, keepers of various public records, to show that the birth certificate Chambers offered in applying for a passport to Europe was that of one David Breen, a child who died at the age of three and a half; that Chambers swore in this application to an oath of allegiance he had no respect for; and that he was discharged from a job in the New York Public Library for having a few books "improperly in his locker" and for having taken home 56 volumes from the Columbia University Library that he never returned.

Mr. Cross tried several times to get to see the reports of conversations Chambers had between 1939 and 1945 with Mr. Adolf Berle (an under secretary of the State Department), with the Federal Bureau of Investigation, and with the security officer of the State Department. But Mr. Murphy strenuously objected to his seeing what amounted to secret Government reports, and Judge Goddard wearily agreed to look at them first to decide if there were any discrepancies the defence had a right to put on record.

### NEARLY PERFECT DEFENCE

Mr. Cross spent the whole of Tuesday plodding through the dark jungle of Chambers's life in the Communist underground, turning every stick and stone for the hidden treasure of contradiction. He would turn around the same tree twice, then plunge into some tangled thicket and beat it back suddenly to a place they tracked over for hours. It is possible he was deliberately trying to make Chambers dizzy, for yesterday he quickened up the process till he made the forest rattle like a xylophone.

But a lot of this was music to Chambers's ears. He has a nearly perfect defence; that of admitting that, when he was a Communist, oaths

were made to be broken, that his word was given to confuse, and that since his reformation, since he first appeared before the House Committee any changes in his testimony—either before the grand jury, or in his Baltimore deposition, or to the F.B.I., or even at the first trial—have been honest improvements in his recollection.

This attitude lends to Chambers the aplomb of a man who has gone through purgatory and, who now, like the emerging Dante, sees the clear vault of heaven above with the wonder of a child and the purity of a saint. Mr. Cross got from him on Tuesday the admission of innumerable lies and discrepancies, but Chambers is as cheerful as a pixie in acknowledging them. And in insisting on this early wretchedness and state of sin, Mr. Cross appeared to one spectator at least to be engaging in the dangerous pastime of actually helping Chambers to knit his hair-shirt.

They began with the faked passport:

Did he know before to-day that the defence had got hold of the application?—My impression was you were frantically looking for it.

"Did you know David Breen?"—"Did I know David Breen?" asked Chambers with a nonchalant gaze, "I am David Breen."

This might be madness to the defence, but there was method in it, and the courtroom rippled with laughter. Chambers in one day had come a long way from his tearful confession that in private he ranges himself on the side of mercy. In public at least he was now ranging himself on the side of a highly successful insolence. Mr. Stryker would have protested accordingly and Judge Kaufman would have probably wagged an angry finger at him. But Judge Goddard long ago accepted the human animal intelligence at play, even in a courtroom, and he let it go.

"You mean you are David Breen to-day?"—"Obviously not," Chambers replied with bored disgust. He then went on to admit that he had signed a false application, sworn a false oath, that the passport was issued while he was still living at the Hisses apartment in Washington, that he journeyed to New York to do the dirty deal, that the passport photograph certainly did show a moustache, whereas the picture supposedly of the same vintage shown to the House Committee for Hiss to identify certainly was clean shaven. This seemed a likely trap, but Chambers sprang it and escaped with a fleeting sarcasm.

"Did you have a grown moustache," asked Mr. Cross intently, "in contradistinction to a false moustache?"—Back came the solemn answer, "I never wore a false moustache except at Halloween."

This wrangle went on for nearly two hours and it was obviously a bore to Chambers. He hadn't got the passport now, didn't know or care what had happened to it, and the same was true of any other passport. Mr. Cross gave up.

Kisseloff-23286

## EFFORTS TO SHAKE CHAMBERS

### Questions About His Brother's Suicide

From Alistair Cooke

NEW YORK, NOVEMBER 25

Until the second full day of the cross-examination of Whittaker Chambers, it seemed that the prosecution had learned more from the first trial than the defence

Mr Murphy has voluntarily withdrawn from any competition to prove the superior credibility of Chambers over Hiss. He puts his faith in the 47 documents which the Government accuses Alger Hiss of having passed to Chambers in the first three months of 1938, and by the denial of which Hiss was indicted for perjury.

On the contrary, it has not been easy to recognise in any such drastic change in the line of defence, except in Mr. Cross's assertion on the first day of this trial that he would show the papers had been given to Chambers by an unidentified "confederate" in the Far Eastern department of the State Department.

On the last day before the Thanksgiving recess Mr Cross quickened the pace of his cross-examination and did at last seem to catch Chambers in several discrepancies that could be damaging to the main indictment. He shuttled back and forth between the now famous issues like a waspish schoolmaster trying to trap a child in his tables. From the New Hampshire trip to the identity of the Hiss maids, from a recital of a restaurant meeting to a demand for all the pseudonyms Chambers has ever used (fourteen in number), from the fate of a chair the Hisses had given him to the fate of a typewriter Chambers confessedly left on a train, from the mobility of Chambers in going twice nightly to Baltimore to photograph the documents, to his wretched immobility after his brother's suicide. Mr Cross evidently tried to suggest that Chambers was adding new and dubious circumstantial detail, that his routine in photographing the secret papers implied a highly unlikely athleticism, that a breakdown when his brother died and another when he was a magazine editor are symptoms of a psychopathic personality.

#### THE PSYCHIATRIC ASPECT

Many people had not expected to see the defence again attempt a psychiatric argument. In the first trial Judge Kaufman conceded that psychiatric opinion is becoming daily more acceptable in the courts, but he shrank from a precedent in a Federal perjury trial and, having allowed Mr Stryker to paint an impressionist portrait of Chambers in the form of a hypothetical question, he then forbade the psychiatrist on the stand to answer it. Judge Goddard, it seems apparent, will have even less sympathy with this line of attack.

The record of the transcript is worth quoting at this point. Mr Cross quietly took up his position at the far corner of the jury box and suddenly asked:

Did your brother commit suicide?  
Mr Murphy I object to that. It seems to have no relevance to this case at all. What difference does it make if his brother did commit suicide?

Mr Cross Well well I submit it is a foundation for psychiatric testimony and only has a bearing on that.

Judge Goddard It is allowed, it seems remote.

Mr Cross Did your brother commit suicide?—Chambers He did.

Mr Cross Did he ask you to enter into a suicide pact? (Mr Murphy pressed his objection.)

Judge Goddard Do we need to go into a matter of that kind?—Mr Cross A psychiatrist places reliance upon the man's history. (The Judge nodded.)

Chambers He did.

For the second time on the stand Chambers was shocked out of his airy sardonic style by something that happened inside him. There is no question that the memory of his brother stirs a well of feeling he has managed to seal off. To see him crumple again into a forlorn introspection is shocking

also to the spectator, because it shows up by contrast the astonishing lack or denial of emotion with which Chambers normally looks back over his life and troubled times. He was bitterly discomfited by Mr. Cross's subsequent questions.

What effect had his brother's suicide had on him?—the effect was "paralysing." Anticipating the literal play Mr Stryker had made on this word, he said he could hardly move for days and for a time had no desire to do anything.

Yes, his brother had left the written sentence, "We are gentle people, incapable of coping with the world."

His brother's suicide had "set the seal on my being a Communist. I was a Communist before, but I became a fanatical Communist thereafter."

Pressed later about his breakdown in, he believed, 1943, he admitted he had been away from the office, ill on his farm, for something like seven or nine months, and a doctor had diagnosed his case as "heart." Did he not see another doctor who said he had no heart ailment at all "but it would be better if you thought you had?"—That was right.

#### MOVEMENTS RECONSTRUCTED

For the rest of the day, Mr Cross divided his time between reconstructing the movements of Chambers on the nights he picked up the papers from the Hiss house, and questioning the embroidery or changes Chambers has lately made in his accounts of various overnight trips with the Hisses. For instance

he now adds that on the trip to New Hampshire in August 1937 to see "She Stoops to Conquer" the three of them stopped overnight on the way back at a tourist home in Connecticut. This is just the sort of circumstantial item that looks at first like a present to the defence. For Chambers admitted going into Connecticut twice with the Federal Bureau of Investigation and failing to find the tourist home.

Again he hazily recalls on a trip into Pennsylvania, whose purpose he has forgotten, that he and Hiss stayed at a place he cannot identify which he somehow recalls was run by two people "with Polish names." Such stories are unsatisfactory in just the way that the memory tends to be. If they are inventions, they are diabolically contrived by the imagination and not by the reason.

# NEW TACTICS IN THE HISS TRIAL

## Government Admits at Start All Chambers's Faults and Tricks

From Alistair Cooke

New York, November 21

At this early stage of the second Hiss trial Mr Murphy, the Government counsel, not only reviewed the life and career of Chambers again but mentioned the random trickeries and perjuries that Mr Stryker, for the defence, had first drawn from Chambers with such triumphant scorn. Mr Murphy wanted to be sure to recall everything disreputable that had previously been left to the defence to unearth.

The defence, he tolerantly noted, would try to make "great capital" out of Chambers's innumerable lies. But Mr Murphy asked the jury "to throw yourself back to those years"—the nineteen-thirties—"if you don't you cannot quite grasp the behaviour of such intellectuals as Chambers." Mr Murphy threw himself back and came up with the confession that Fascism had then presented a perilous threat. "There were people," he explained, "who thought that only the Russians could stop the threat of Fascism." So they would see "how easy it was to become enmeshed in foreign ideologies." Chambers became so enmeshed. He was apt for it because he had had a miserable childhood and been born into a home where there was no religious training.

But Chambers was not without courage. He had honestly become a Communist agent, a dangerous profession, but once he decided that "the Marx-Lenin philosophy was false," he quit the party. Because of what he knew "he had to go in hiding and sleep with a gun beside him." But being the man he is "he then had to get back into the stream of life. He had again to become a man." He did it by laborious hard work over many years and finally, Mr Murphy revealed in tones of reverential awe, Mr Stryker had adopted when he mentioned Hiss's apprenticeship to Mr Justice Holmes "he became senior editor of one of our largest national magazines at a salary of \$30,000 a year."

### REGENERATIVE JOB TOO HARD

In this regenerative job he sometimes worked 48 hours around the clock, and his health broke. He bought a farm, and that was what he was now—a farmer. Mr Murphy implied that he would have been content to be just that and let bygones be bygones if he had not suddenly "on one day's notice," been subpoenaed by the House Un-American Activities Committee in August last year and asked to say what he knew about espionage. He told them what he knew he told them about his own disreputable past. But he deliberately kept back the documents that were to damn Hiss in this way he perjured himself. Not until Hiss had denied any Communist connections and forced a libel suit on him did Chambers reluctantly produce the documents and tell all he knew.

Why, asked Mr Murphy, did Mr Chambers wait so long to produce the documents? This was a question a good many other people had asked throughout June and July. Well, Mr Murphy would tell us. "He just couldn't bring himself to go that far with his former friend."

Mr Cross for Hiss got up and was, if anything even quieter than Mr Murphy. By now the press has a regulation label for him—"Mr Claude Cross, the soft-spoken Bostonian." This is something

of a contradiction in terms, but while Mr Cross is a graduate of the Harvard Law School, where they teach the soft answer that turneth away wrath, he gets his soft accents from fifteen hundred miles South, from nine miles outside Enterprise, Mississippi, his birthplace. So, by birth and breeding, he is a gentle, almost apologetic man.

He started by reminding the jury that though this case has created national interest "it is important that our American system of jury trials be maintained by your record of deciding this case solely by the evidence offered"—a reflection on the first jury's entrance in the jury room which this jury may possibly hear more about. He agreed with Mr Murphy about the issue and "I have not any doubt that you will never be able to reconcile the testimony of the two chief witnesses."

### A FALSE BIRTH CERTIFICATE

He briefly sketched the personal history of Hiss, "a normal" boy and very able college student, in his manhood always proceeding from one position of great trust to another and always honouring that trust. Mr Cross then redrew the familiar portrait of a rootless, unreliable Chambers, and put in the new highlight that while Chambers was reported to be living at the Hisses' Washington apartment in 1935 he applied for a passport to Germany and offered for identification a birth certificate of one David Breen, who had in fact died at the age of three.

Mr Cross suggested that Chambers had picked up his extensive knowledge of the Hiss furnishings at various addresses from hearing them described before the House committee and the pre-trial hearing of the libel suit in Baltimore. He also noted again that when Chambers was in a confessed "turmoil" at the Baltimore hearing, then, and only then desperate for some tangible proof did he produce the famous documents and his word alone said they had been given him ten years ago by Hiss.

Mr Cross then showed what he hopes is the ace that, if Mr Stryker ever had it up his sleeve, was never shaken down in the first trial. He would prove, he said, that the documents were typed by Chambers and perhaps one other confederate. He would show that several of the original State Department documents from which the copies were made never went to Hiss's office whereas they all went to the Far Eastern division of the State Department. He would show them enough proof to make them want to consider "whether Chambers had not got a pipeline out of the Far Eastern division." He would show that it was the missing "thief," aided and abetted by Julian Wadleigh (a former State Department man who confessed passing documents, but not these, to Chambers), who had in fact given to Chambers the papers falsely wished on Alger Hiss.

Wadleigh wrote a series of Communist confessions in a New York paper which were printed during the first trial. They went beyond his evidence in court and it is a nice point to decide whether Wadleigh expected the trial to end as it did. Presumably these articles can now be put in as evidence. And the great question at the moment is, has Wadleigh anything more to tell, and if he has, will he think it worth while admitting he kept something back at the first trial? That "something," if Mr Cross is not reaching for the stars, could be Alger Hiss's passport to freedom.

# FIRST DAY OF SECOND TRIAL OF HISS

## Methods of Selecting the Jury

From Alistair Cooke

NEW YORK, NOVEMBER 18  
Alger Hiss, the former State Department official, came into the Federal Court again yesterday, again accused—on the indictment of the same grand jury—of having committed perjury when he denied having passed confidential State papers to a then Communist courier. The first trial lasted six interminable weeks of the hottest summer in history, and ended with a jury divided between eight for conviction and four for acquittal. The Government pressed the charge, put the case again on the court calendar, and now at last a judge was free to take it. And so just before noon yesterday, for the second time Alger Hiss, a lean and handsome man, a little more stoical, perhaps, than he seemed in July, but still the man who as much as any man in the United States has known what it is in the past eighteen months to be "full of sorrow and acquainted with grief."

The demands of "colour" reporting incited some newsmen yesterday to say that Hiss looked older and greyer. So he is, but aren't we all? It is more a characteristic of winter than of Hiss. Mr. Murphy, the Government counsel, who again is the prosecutor, looked greyer than most of us, only because his complexion has faded over the months into that look of near-jaundice which is the autumnal penalty of all of us who sport in summer such gorgeous beach-comber tans as he did. The counsel looked greyer, the newsmen seemed greyer, the seersucker suits had gone into mothbags.

Worst of all, Mr. Lloyd Paul Stryker had faded away altogether, having been replaced as chief defence lawyer. And any room is the greyer for his absence. The courtroom is just across the hall from the one we sat in last time. It is identical but everything is in reverse. And here again, as counsel took their places, and the Hisses went into the well, and 60 talesmen packed one side of the court, it looked like the same old trial seen through a glass greily.

### THE NEW JUDGE

The new judge is the second senior judge of this circuit, Henry W. Goodard, a magnificent old American bald eagle with two white nests of hair sprouting from long ears, curving quizzical eyes, an imperious hook of a nose, and a huge clapper of a mouth, a replica you would say of Warren Gamaliel Harding.

He is a leisurely veteran of the Federal Courts, obviously able to handle the whipper-snapper impatience of any of the fledglings at the counsel tables. When Mr. Murphy reared his impressive six feet five to protest against a defence request to examine some ships' passenger lists of the Department of Immigration (something unspecified to do with the transatlantic comings and goings of Whittaker Chambers), Judge Goodard wondered indulgently what was odd about the request. He thought it could be allowed.

"Of course, if your honour so directs," sighed Mr. Murphy. But Judge Goodard is in his seventy-fourth year and not the sort of man who wastes his dignity on "directing" anybody when he can mildly say "I think it

is the simplest thing to do. Mr. Murphy" Mr. Murphy concurred with unaccustomed submissiveness. And that was the only brush of the day.

### SELECTING THE JURY

The whole morning was taken up with choosing a jury, a process which in the elaborate American system can last one week or even five. But again Judge Goodard seems to have the knack of making speedy procedure look like the natural amble of common sense. The first tentative dozen is chosen by the spin of a drum, and that is as close to a roulette machine as anything you will see in the American temples of law and order. Once these twelve were seated in the jury box, the weeding-out—on grounds of bias or prejudice admitted by the victims or presumed by counsel—went along very smoothly. The judge read to the first twelve the indictment and then the test questions submitted by both counsel. Had any of them an impression of the guilt or innocence of the defendant or of any witnesses? Did they know any of the lawyers? Had they or any relations worked for the magazines "Time," "Life" or "Fortune"? Had they ever had any legal disputes with the United States? Were any of them biased on account of anything they had read or heard about the first trial? Had they ever subscribed to any of a huge list of Leftist organizations on the Government's subversive list?

The original twelve appeared for a while to be almost as spotless as the chosen jury of the first trial. But when the number one juror admitted to knowing a former defence lawyer, he was excused. Seven other number ones were called and excused. Altogether thirty-one were excused, the defence exercising nine of its permitted ten challenges, or peremptory dismissals for no reason given, and the Government exhausted its permitted six.

As the morning wore along, more and more of the substitutions who stayed unbiased and unchallenged were seen to be females, till in the end the jury was complete—eight women, in a wild menagerie of autumn hats, and four rather old men, already wearing a slightly henpecked look. It was very noticeable that far more men than women doubted their lack of bias, an issue in the ancient war between men and women that has not previously been noticed as the turning-point in our judicial system.

### THE VOGUE OF PREJUDICE

There was another interesting difference from the summer in the prevailing vogue of prejudice. Drove of prospective jurors were excused in the first trial when they admitted that they probably harboured prejudice against any witness who was a former member of the Communist party. To-day, the reformed Communist is either the most lovable member of American society or he has lost his menace for the common man. Only one of the whole sixty talesmen asked to be excused on this ground. Most of the others—grave and modest men who were obviously superb jury material—declined to be thought incorruptible and left it to the brash, the insecure, or the truly serene twelve who eventually withstood all aspersions on their imperviousness to the political climate of the time.

Anyway, after nearly two hours the apostles were chosen—seven housewives, a company treasurer, a lawyer's mortgage expert, an optician, an electrical company manager, and a retired manufacturer of plastics.

When they were sworn and excused, Judge Goodard looked down at Mr. Murphy and Mr. Maclean, the defence's attorney of record, and said:

"I wanted you to do one thing. I want you to look up the code of ethics of this State of New York with regard to lawyers talking to newsmen during the conduct of a trial. Read it and respect it. We don't want this case to be tried by the newspapers."

They bowed obedience and went out looking right through the surrounding newsmen like Nelson with the glass up to his blind eye.