

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE PETITION OF AMERICAN)
HISTORICAL ASSOCIATION, AMERICAN)
SOCIETY OF LEGAL HISTORY,) Miscellaneous Action
ORGANIZATION OF AMERICAN HISTORIANS,) M-11-189
AND SOCIETY OF AMERICAN ARCHIVISTS)
FOR ORDER DIRECTING RELEASE OF)
GRAND JURY MINUTES)

DECLARATION OF BRUCE CRAIG

I, Bruce Craig, hereby declare as follows:

1 I am a public historian by training and profession with a particular interest in the Cold War era. I submit this declaration to support the above-captioned petition to unseal the grand jury records relating to the indictment of Alger Hiss.¹ Alger Hiss was indicted for and later convicted of two counts of perjury arising out of his denials under oath before the grand jury of having passed State Department documents to Whittaker Chambers, a Communist agent.

2. I recently completed my dissertation in American History on the espionage investigation of a high-ranking Treasury Department official accused of being a Communist spy, entitled "Reasonable Doubt: The Harry Dexter White Case, 1934-1953," under the guidance of Professor Alan Kraut at the Department of History, the American University, Washington, D.C. In 1989, my

¹Attached as Exhibit 1 is a list of the known witnesses whose testimony we seek, the date(s) each testified, whether each is still alive, and whether each also testified before the House Un-American Activities Committee.

article "Politics in the Pumpkin Patch" won the G. Wesley Johnson award as the best article in the journal of history, The Public Historian. I have written dozens of other articles for popular and scholarly periodicals, including most recently "Unsealing Federal Grand Jury Records: The Case of the Harry Dexter White Transcript," (in The Public Historian, Vol. 20 No. 2 (Spring 1998), at 45-62), and have served on the editorial board of The Public Historian.

3. This declaration is based on an extensive research project into what is publicly known about the grand jury proceedings related to the indictment of Alger Hiss. I have examined many of the primary sources pertaining to the grand jury investigation, and have attached the relevant portions as exhibits. These sources include the transcripts of both Hiss perjury trials;² the Hiss Defense Files (now at the Harvard Law School Library), which contain Alger Hiss's lawyers' and others' files relating to the Hiss defense effort (from 1950 on) and Hiss's 1977 effort to unseal the grand jury records;³ the Hiss FBI files available in the FBI reading room in Washington, D.C.; the George Eddy and Elinor Ferry⁴ collections (currently in my

²United States v. Hiss, No. C. 128-402 (S.D.N.Y. filed May 31, 1949), and United States v. Hiss, No. C. 128-402 (S.D.N.Y. filed Nov. 17, 1949). Relevant portions from the transcript of the first trial are attached as Exhibit 2, and excerpts from the transcript of the second trial, including a copy of the indictment, are attached as Exhibit 3.

³Relevant excerpts are attached as Exhibit 4.

⁴George Eddy and Elinor Ferry were lifelong students of the Hiss case. Both amassed large collections of Hiss-related

possession but soon to be donated to the Harvard Law School); contemporaneous newspapers, primarily the New York Times;⁵ the Tom Clark papers (at the Truman Library); the Department of Justice Records (RG-118) on the Hiss perjury trials (Case No. 111692) and the U.S. Attorney Case File on Alger Hiss, at the National Archives and Records Administration in Washington, D.C. and the Northeast Region-- New York; the files of Victor Rabinowitz and Eric Seiff, attorneys of record for Hiss's 1977 petition to unseal his grand jury records, Hiss v. Department of Justice No. 76 Civ. 4672 (S.D.N.Y.);⁶ and the files of William A. Reuben, Hiss's co-plaintiff in his 1977 petition.

INTRODUCTION

4. The two sensational perjury trials that focused on the activities of former State Department official Alger Hiss in the 1930s were among the most infamous cases of the early Cold War era. The indictment and trials have been the topic of study for many historians and the subject of many books, articles, a documentary motion picture, and at least one television docudrama. See, e.g., Weinstein; Sam Tanenhaus, Whittaker Chambers: A Biography (1997); The Trials of Alger Hiss (History materials. Ms. Ferry was also secretary of the Emergency Committee for Civil Liberties. For information on FBI files, see Allen Weinstein, Perjury: The Hiss-Chambers Case, 469 (Rev. ed. New York: Random House, 1997) [hereinafter "Perjury"].

⁵Relevant excerpts are attached as Exhibit 5.

⁶The petition and supporting affidavits are attached as Exhibit 6.

on Film Co., 1980). Much about the case is known as over the years, scores of books have provided a basic chronology of events leading to what is often called "the Hiss-Chambers controversy." See, e.g., Alistair Cooke, A Generation on Trial: USA v. Alger Hiss (1952); William Allen Jowitt, 1st Earl, The Strange Case of Alger Hiss (1953); John Chabot Smith, Alger Hiss: The True Story (1976); Weinstein, Perjury; Tanenhaus, supra. Both principals, Alger Hiss and Whittaker Chambers, wrote books on the controversy. Alger Hiss, In the Court of Public Opinion (1957); Whittaker Chambers, Witness (1952) [hereinafter Chambers, Witness]. Despite leaks and the release of some excerpts of testimony, the contents of the grand jury records remain a subject of speculation for historians and others. The complete grand jury transcripts relating to this landmark trial have never been formally unsealed.

5. The grand jury that indicted Alger Hiss was convened on June 16, 1947 and charged to inquire into allegations of espionage in the United States. The grand jury indicted twelve Communist Party leaders, including William Z. Foster,⁷ of conspiracy to violate the Smith Act on July 20, 1948; these indictments also included individual charges, but were sealed before they were handed up. See Exh. 5, Joseph A. Loftus, 12 Communists Indicted in Anti-Government Plot; Foster, Davis,

⁷William Z. Foster had repeatedly run as the American Communist Party candidate for President. See Exh. 5, Joseph A. Loftus, 12 U.S. Communists Indicted in Anti-Government Plot; Foster, Davis, Others Seized, N.Y. Times, July 21, 1948, at 1, 3.

Others Seized, N.Y. Times, July 21, 1948, at 1, 3. After at least one adjournment, the grand jury reconvened on December 6, 1948 specifically to examine the Hiss-Chambers controversy. Alger Hiss, a former State Department official and at the time President of the Carnegie Endowment for International Peace, was indicted on two counts of perjury on December 15, 1948, the last day of the grand jury's existence. See Exh. 3, Indictment, United States v. Alger Hiss, No. C. 128-402, included in Transcript of United States v. Alger Hiss, No. C. 128-402 (S.D.N.Y. filed Nov. 17, 1949) 2-5 [hereinafter Hiss Indictment]; Alger Hiss, Recollections of A Life 150 (1988). A second grand jury was impanelled on December 16, 1948, one day after the first indicted Hiss; that jury continued and expanded the espionage investigation.⁸

6. It is unknown exactly how many witnesses testified before the two grand juries on allegations related to the Hiss-Chambers controversy. Adelaide Lowe, the secretary of the first grand jury, testified that it heard about 87 witnesses, see Exh. 2, United States v. Hiss, No. C. 128-402 (S.D.N.Y. filed May 31, 1949) [hereinafter Transcript of First Trial] 56; presumably,

⁸The successor grand jury returned a presentment on April 26, 1949, recommending changes in the espionage laws. See Exh. 5, Grand Jury Urges Tighter Spy Laws, N.Y. Times, July 27, 1949, at 1, 7, 10 (reprinting presentment). It also indicted William Remington for perjury based on his denial of Communist Party membership. See Gary May, Un-American Activities: The Trials of William Remington 180 (1994). Twelve years younger than Hiss, Remington had been a Commerce Department economist. See id. at 3, 176. Remington was eventually convicted of perjury and murdered while serving his prison sentence. See id. at 264, 271, 290, 310.

this testimony included witnesses testifying in relation to the twelve conspiracy indictments handed up by that grand jury and whose testimony this petition does not seek. Exhibit 1 lists the known witnesses before each grand jury on matters related to the Hiss-Chambers controversy, whether they are still alive (the majority are not), and the dates on which they testified.

7. The perjury charges against Alger Hiss were tantamount in the public's mind to a charge of espionage.⁹ The allegations were particularly shocking and controversial because Hiss typified the New Deal elite: he had been educated at Johns Hopkins and Harvard Law School; had clerked for Justice Oliver Wendell Holmes, Jr.; and had worked at prestigious law firms. See David M. Oshinsky, A Conspiracy So Immense 99-100 (1983). Hiss had entered the Federal government in 1933. He worked first for the Agricultural Adjustment Administration, later for the Nye Committee, the Justice Department, and finally, beginning in 1936, for the Department of State. See id.; Alger Hiss, Recollections of a Life 87 (1988). Hiss helped organize the Dumbarton Oaks and San Francisco conferences that laid the groundwork for the United Nations, and he advised the Roosevelt administration in certain matters relating to the nation's

⁹The statute of limitations relating to espionage was three years, although it had been suspended during the war. See Exh. 5, Russell Porter, New Spy Documents Show 1937 Nazis' Overtures to US; Hiss Freed in \$5,000 Bail, N.Y. Times, Dec. 17, 1948, at 1, 5. Chambers had alleged that Hiss had been passing information and documents to him from the mid-1930s to 1938, and so the statute of limitations would have barred an espionage charge. Cf. Weinstein, Perjury 246 (discussing problem of what charge to bring).

foreign relations. See David M. Oshinsky, A Conspiracy So Immense 99-100 (1983); Weinstein, Perjury 315. John Foster Dulles, Eleanor Roosevelt, Dean Acheson, Adlai Stevenson, and Felix Frankfurter¹⁰ were among his acquaintances and friends. See id.; Earl Latham, The Communist Controversy in Washington: From the New Deal to McCarthy 3 (1966) [hereinafter Latham, Communist Controversy]; Dean Acheson, Present at Creation: My Years in the State Department 102-03, 250-52, 359-61 (1969).

8. Whittaker Chambers, a self-confessed ex-courier for the Soviet underground in the 1930s, was the principal witness against Alger Hiss. Chambers in part corroborated and also supplemented the story of Elizabeth Bentley (another self-confessed ex-Communist courier) who had approached the FBI in the 1940s with allegations that certain government officials had or still belonged to underground Communist groups and that they had spied for the Soviet Union. At first, the FBI declined to investigate the allegations but events including the defection of Igor Gouzenko, a Soviet cipher clerk, to Canada in September 1945 demonstrated that the Soviets had indeed organized underground networks in the U.S., Canada, and elsewhere and had obtained vast numbers of confidential documents. The FBI eventually pursued both Chambers's and Bentley's charges. In early 1948, Chambers named individuals, including Hiss, he thought to be Communists or

¹⁰Justice Frankfurter, Justice Stanley Reed, Adlai Stevenson, and many other public figures testified for Hiss as character witnesses at the first perjury trial. See Weinstein, Perjury 399-400.

fellow travelers¹¹ but denied any knowledge of espionage. By December 1948, however, Chambers's story had changed: He made detailed assertions that Hiss had personally and deliberately provided him with State Department documents to convey to Soviet agents. See Weinstein, Perjury 239.

9. By mid-1947, two government investigations into Soviet espionage within government agencies had been initiated. The House Un-American Activities Committee ("HUAC"), led by Representatives Karl Mundt and Richard Nixon, carried on its own investigation on Congress's behalf, while the Justice Department impanelled a grand jury on June 15, 1947, to investigate "possible violations of the espionage laws of the United States and any other Federal statutes." Exh 3 Hiss Indictment 2.

10. Although the events of December 1948 were highly publicized and publicly available sources detail some of Hiss's, Mrs. Hiss's, and Chambers's grand jury testimony, claims about what happened before the grand jury remain largely unconfirmed and historians know little more than the general thrust of other witnesses' testimony. Moreover, although the names of many of the second grand jury's witnesses and the subjects on which they were likely to testify are known, there are few publicly available records relating to the testimony heard by the second grand jury.

11. This Declaration has several objectives. It first

¹¹"Fellow travelers" were individuals who were not necessarily members of the Communist Party, but sympathetic to the Communists' objectives and those of the Soviet Union.

chronicles the Hiss-Chambers controversy. Second, it outlines what is known about the grand jury, largely based on excerpts of Whittaker Chambers's, Alger Hiss's, and Priscilla Hiss's testimony that were entered in evidence at trial; the testimony of several other witnesses is inferred, to the extent possible, from press accounts and primary sources available in public archives. Third, the affidavit outlines and describes the publicly available sources of information about the grand juries investigating the Hiss-Chambers controversy. Fourth, it summarizes allegations of improprieties by the grand juries. Finally, it describes the current location of and my attempts to obtain the grand jury records.

THE HISS CASE

12. On August 3, 1948, in an attempt to confirm the basic story of Soviet espionage related to HUAC weeks earlier by Elizabeth Bentley, HUAC subpoenaed Whittaker Chambers to testify on matters relating to alleged Communist penetration of government agencies during the Roosevelt administration. See Weinstein, Perjury 46. Chambers told HUAC that Hiss had belonged to a Communist cell in the mid-1930s. See id. at 5. Hiss asked to appear before HUAC, where under oath he denied the charges, and also denied ever knowing anyone by the name of Whittaker Chambers. See id. at 10-11. In an attempt to clarify the stories of both principals (or, according to some, to "trap" Hiss), HUAC arranged for Hiss and Chambers to meet in a private

executive session of HUAC on August 17, 1948. See id. at 30. After questioning Chambers, Hiss proclaimed that he now recognized him, but claimed he knew him as a freelance writer named George Crosley. See id. at 31-32. During this confrontation, an angered Hiss challenged Chambers to repeat his charges in a forum where they would not be privileged against suit for libel. See id. at 33. On August 27, 1948, Chambers repeated on a nationwide broadcast of the popular radio program Meet the Press that "'Alger Hiss was a Communist and may still be one.'" Chambers, Witness 711. Hiss brought a \$50,000 libel suit against Chambers in the District of Maryland on September 27, 1948. See Weinstein, Perjury 141.

13. On November 17, 1948, during discovery for the libel suit, Chambers produced the so-called "Baltimore papers": Memoranda in Hiss's handwriting and sixty-five typewritten sheets, all but one of which contained verbatim copies or paraphrased excerpts of official State Department documents dated from January to April, 1938. See Weinstein, Perjury 153, 227. Chambers claimed that Hiss had sought to pass these materials along to Col. Boris Bykov,¹² and that Hiss knew Bykov ran a Soviet underground network. See id. at 227. Hiss's attorneys turned these documents over to the Department of Justice; eventually they were entered in evidence at Hiss's perjury

¹²Bykov was Chambers's "spymaster," an officer in the Fourth Section (military intelligence) of the Red Army and believed to have been the head of Red Army intelligence in the United States from 1936 to 1939. See Weinstein, Perjury xxi, 111; Chambers, Witness 26.

trials. See id. at 156; Exh. 3, Transcript of United States v. Alger Hiss, No. C. 128-402 (S.D.N.Y. filed Nov. 17, 1949) [hereinafter Transcript of Second Trial], 279-99. Some of them were also publicly released by HUAC. See Exh. 5, John D. Morris, 12 'Spy' Papers Disclosed, One Held Written by Hiss; Inquiry Here to Get Films, N.Y. Times, Dec. 12, 1948, at 1. The government alleged that the handwritten documents were in Hiss's handwriting and that the typed Baltimore documents had been typed on a typewriter once owned by Hiss.

14. On December 2, 1948, a United Press report reprinted in the Times announced that "[t]he Justice Department's investigation of the Hiss-Chambers affair is about to die for lack of evidence." Exh. 5, Hiss Inquiry Lagging, N.Y. Times, Dec. 2, 1948, at L3.

15. Congressman Richard Nixon, who sat on HUAC, and Robert Stripling, HUAC's chief investigator, later claimed that they drove out to Chambers's Westminster, Maryland farm that afternoon to discuss the news report and rumors that Chambers had still more evidence. See Weinstein, Perjury 164-65 (citing Nixon, Chambers, and Stripling). The next evening, Chambers led HUAC investigators to his farm, where he retrieved from a hollowed-out pumpkin nestled in his pumpkin patch several rolls of thirty-five millimeter film. See Richard M. Nixon, Six Crises 49 (1962). Once developed, the film revealed copies of State Department documents. See Brief for Appellant at 3, United States v. Hiss, 185 F.2d 822 (2d Cir. 1950). Prints of these films became known

as the "pumpkin papers," and HUAC eventually released most of them to the public. See Exh. 5, C.P. Trussell, 12 'Spy' Papers Disclosed, One Held Written by Hiss; Inquiry Here to Get Films, N.Y. Times, Dec. 12, 1948, at 1, 66; C.P. Trussell, U.S. Arms Secrets Leaked to Russia, Says House Group, N.Y. Times, Dec. 15, 1948, at 1.

16. The federal grand jury that had been impanelled months before the case broke was reconvened on December 6 and began a focused investigation into the "Hiss-Chambers controversy." Apparently, the grand jury seriously considered indicting Chambers for perjury even after deciding to indict Hiss. See Exh. 4, Hiss Personal 2395, Memorandum (Dec. 17, 1948) (citing John Weiss, a reporter for the New York Star); see also Latham, Communist Controversy 192 ("there was a strong suspicion that the Department of Justice was prepared to ask the grand jury to indict Chambers and not Hiss"); Exh. 5, C. P. Trussell, Ex-Official Refuses to Say if He Helped Soviet Spies; Truman Again Hits Inquiry, N.Y. Times, Dec. 10, 1948, at 1 ("Angrily, Representative Richard M. Nixon . . . in effect accused the Department of Justice of trying to silence the House investigation by seeking the indictment of Mr. Chambers for perjury."). The realization that indicting Chambers for perjury would substantially weaken the government's case against Hiss apparently influenced the grand jury's decision not to indict Chambers. See Exh. 4, Hiss Personal 2395, Memorandum (Dec. 17, 1948) (citing John Weiss, a reporter for the New York Star).

17. Nixon appeared before the grand jury on December 13, 1948, at his own request. See Richard M. Nixon, Six Crises 60 (1962). Hiss's lawyers later alleged that Nixon's grand jury testimony may have been unduly influential, given Nixon's well-publicized belief that Hiss was guilty and his highly visible position on HUAC. See Exh. 3, Affidavit of Edward C. McLean, Esq., Notice of Motion to Inspect Grand Jury Minutes and Affidavit, Second Trial, included in Transcript of Second Trial at 21, 30-31.

18. On the last day of its existence, the first grand jury to consider evidence relating to the Hiss-Chambers controversy indicted Hiss on two counts of perjury. Hiss was charged with perjuring himself when he testified that (1) he had never handed government documents over to Chambers, and (2) he had not seen Chambers after January 1, 1937. See Exh. 3, Hiss Indictment. The second charge was particularly significant because some of the documents produced by Chambers referred to events that occurred in 1937 and 1938, after the date that Hiss claimed to have last seen Chambers. See Latham, Communist Controversy 187.

19. Following Hiss's indictment, the grand jury recommended that a new grand jury be impanelled to continue the investigation into the Hiss-Chambers controversy and into allegations of Communist espionage more generally. See Exh. 5, Russell Porter, Hiss Indicted for Perjury in Communist Spy Inquiry; New Jury to Meet Today, N.Y. Times, Dec. 16, 1948, at 1, 3.

20. Hiss's first trial began on May 31, 1949, and ended on

July 8, 1949 with a hung jury. Hiss's second trial began November 17, 1949 and ended on January 21, 1950 with a conviction on both counts. On January 25, 1950, Hiss was sentenced to five years of prison on each count, to be served concurrently. See United States v. Hiss, 107 F. Supp. 128, 129 (S.D.N.Y. 1952). Hiss appealed, the Second Circuit affirmed the convictions on December 7, 1950, see United States v. Hiss, 185 F.2d 822 (2d Cir. 1950), reh'g denied Jan. 3, 1951, see United States v. Hiss, 107 F. Supp. 128, 129 (S.D.N.Y. 1952), cert. denied, 340 U.S. 948 (1951), and Hiss's 1952 motion for a new trial was denied. United States v. Hiss, 107 F. Supp. 128 (1952), aff'd on opinion below, 201 F.2d 372 (1953), cert. denied 345 U.S. 942 (1953). Hiss's 1982 petition for a writ of coram nobis was also denied. In re Hiss, 542 F. Supp. 973 (1982), aff'd without opinion, 722 F.2d 727 (1983), cert. denied 464 U.S. 890 (1983).

21. The government's case charged that Hiss had provided the hand-written notes and the Baltimore papers to Chambers, who passed them on to higher-ups in the Soviet underground, who ultimately forwarded them to the Soviet government. To prove its case, the government alleged that the four handwritten memos were in Hiss's handwriting, that the typed documents had been typed on a Woodstock typewriter once owned by the Hisses, and that Hiss had helped arrange for the copying of the typed State Department documents. Furthermore, the government alleged that Hiss had been in touch with Chambers at least into 1938, the date of the most recent documents. The prosecution relied largely on

evidence of Hiss's past association with Chambers: that the Hisses had provided Chambers with a Ford automobile in early 1936; that they had let Chambers stay in their apartment in 1936; that they had accepted a Bokhara rug from Chambers ("a 'gift'[] from the Russian people," Weinstein, Perjury 188 (attributing quotation to Col. Bykov)); that Hiss and Chambers had traveled to Peterboro, New Hampshire together in August 1937, see Weinstein, Perjury 194-95; and that Hiss had allegedly lent Chambers \$400 in November 1937. See Latham, Communist Controversy 188. Both the grand jury and the trials focused heavily on the Baltimore papers and on the Hiss-Chambers relationship, and to a lesser extent on the pumpkin papers. The grand juries, especially the second, also explored Chambers's allegations of Soviet espionage more generally. Because the Hiss perjury trials turned on the witnesses' credibility, testimony from the first grand jury was used at both trials in efforts to impeach both prosecution and defense witnesses.

WHAT IS KNOWN ABOUT THE GRAND JURY

22. The first grand jury was originally convened on June 16, 1947 for the purpose of conducting an investigation into possible violations of the espionage laws of the United States. See Exh. 5, Alexander Feinberg, Berle Alters View on Red Peril Here, N.Y. Times, Dec. 15, 1948, at 28; Exh. 3, Hiss Indictment 2. After indicting twelve U.S. Communist Party leaders on conspiracy charges on July 20, 1948, the grand jury adjourned.

See Exh. 5, Alexander Feinberg, Chambers Says Hiss Passed U.S. Data to him for Russia; Grand Jury Reopens Case, N.Y. Times, Dec. 7, 1948, at 1, 3. The grand jury reconvened for the last time on December 6, 1948, and during this final round of investigation focused almost exclusively on the Hiss-Chambers controversy. See generally Weinstein, Perjury 246-50, 262-68.

23. The principal witnesses were Chambers and Hiss. Chambers did not claim that Hiss was a spy during his first grand jury appearance in October. However, he made detailed charges against Hiss when he testified again, two months later. More is known about Chambers's first appearance than about his second, largely because Hiss's lawyers used Chambers's initial testimony to discredit Chambers as a witness at the perjury trials. However, one can presume that Chambers's testimony during his second grand jury appearance was substantially the same as the testimony he gave at trial, or else Hiss's lawyers would have been allowed to enter even more of the grand jury transcript into the trial record. After reviewing Chambers's grand jury testimony, Judge Kaufman observed that "commencing on December 7th the witness testified before the grand jury as he has testified here in this [first] trial except for some minor discrepancies." See Exh. 2, Transcript of First Trial 452.

24. Like Chambers, Hiss testified at trial about his grand jury appearances and parts of his grand jury testimony were read into the trial transcript. If Hiss's trial testimony had been substantially different from his grand jury testimony, presumably

the government would have used those inconsistencies to impeach him. Another important source of information about Hiss's grand jury testimony is the set of detailed personal notes he prepared on each day's experiences before the grand jury.¹³ These notes cover not only his own testimony but also Hiss's interactions with the prosecutors and with other witnesses in the grand jury waiting room. Mrs. Hiss prepared similar notes on her grand jury appearance. All these notes are included in Exhibit 4.

WHITTAKER CHAMBERS'S GRAND JURY TESTIMONY

25. Chambers testified before the grand jury on October 14 and 15, 1948, see Exh. 2, Transcript of First Trial 446-47, and subsequently on December 6 - 11, 13, and 15, 1948, see id. at 452, 523, 525a, 580. Parts of Chambers's grand jury testimony were read into the record at the first trial, see id. at 460-68, 512, 513, 524, 526-28, 581-82, 628-29, 633-35, 701-02, 711-18, and at the second trial. See Exh. 3, Transcript of Second Trial, 348-53.

26. As noted by Judge Kaufman, the trial record reveals substantial discrepancies between what Chambers told the grand jury on October 14 and 15 and his statements at his later grand jury and trial appearances. During the first grand jury

¹³At least on December 9, Hiss prepared this memo on the same day he testified and then gave it to his counsel. See Exh. 3, Transcript of Second Trial 1899. For Hiss's notes, see "Hiss Personal" files, especially "Notes on Appearance Before Grand Jury" in the Hiss Defense files, Harvard Law Library, Cambridge, Massachusetts.

appearance, Chambers testified that although he was a Communist Party functionary from 1926 until 1929 and from 1932 until early 1938, see Exh. 2, Transcript of First Trial 581-82 (quoting grand jury testimony), he had no knowledge of any espionage. See id. at 300-01 (quoting grand jury testimony); Exh. 3, Transcript of Second Trial 348-53 (same). He testified that the activities of Communists, including himself, were aimed at developing sympathizers to the Soviet regime in government agencies. See Exh. 2, Transcript of First Trial 585. Judge Kaufman summarized Chambers' testimony in this first grand jury appearance as follows: "that his activity with the Communist Party was the promotion of these various cells; that he had nothing to do with and he knew nothing about espionage. . . . that he never received any papers from any person; that he knew of no person other than a General Miller, who was then a member of the general staff[,] who were giving any papers to anybody; that his information respecting General Miller was purely hearsay." Id. at 447.

27. However, during his December appearances before the grand jury, Chambers told quite a different story. He described a complex and well-developed Communist information-gathering network of Federal agency employees. This new testimony implicated a number of high-profile officials, including Alger Hiss. Before the grand jury on December 7, Chambers "testified in substance that his prior testimony was not truthful; that he did not want to hurt anybody, and that is the reason why he testified in the manner in which he did." Id. 452-53 (Judge

Kaufman).

28. Chambers explained how he had first told then Assistant Secretary of State Adolf Berle¹⁴ his story of a Communist espionage conspiracy on August 21, 1939, shortly after the Soviet-Nazi pact was signed. See Exh. 2, Transcript of First Trial 711-13 (quoting grand jury testimony), 697. Chambers named Colonel Boris Bykov¹⁵ and Dr. Philip Rosenbliett¹⁶ as Soviet agents, as well as others whom he similarly named to the grand jury and to HUAC. See id. at 712 (quoting grand jury testimony), 718 (same). On December 9, Chambers told the grand jury that he had heard that when Berle brought Chambers's information to the proper authorities, he was not taken seriously: He "'was told to jump in the lake or something to that effect.'" Id. at 702 (quoting grand jury testimony). Chambers expected that the FBI would investigate his allegations, but no follow-up contact was made with him over the next two years. See id. at 714 (quoting grand jury testimony). The FBI did interview Chambers in 1941 or 1942, but Chambers did not mention the existence of his corroborating evidence -- the Baltimore papers and the pumpkin papers. See id. at 715 (quoting grand jury testimony), 717-18

¹⁴See Latham, Communist Controversy 174. Isaac Don Levine, editor of the anti-Communist magazine Plain Talk, had arranged the meeting between Chambers and Berle. See Exh. 5, Alexander Feinberg, Berle Alters View on Red Peril Here, N.Y. Times, Dec. 15, 1948, at 28.

¹⁵Bykov was Chambers's superior in the espionage chain. See Chambers, Witness 26.

¹⁶Rosenbliett was "a leading New York underground Communist." Weinstein, Perjury 57.

(same). Chambers also testified before the grand jury about his later discussions with the FBI. See id. at 510, 513.

29. Chambers was questioned about his departure from the Communist Party. He told the grand jury that timing was all-important in leading to his break with the Communist Party, and that he had wanted to give those he had known in the Communist Party an opportunity to abandon the cause with him. See Exh. 2, Transcript of First Trial 529-32. Chambers also stated that he experienced a religious awakening around the time he decided to leave the Party. See id. at 715-16 (quoting grand jury testimony).

30. Chambers explained that he had received documents not only from Hiss and State Department Official Julian Wadleigh¹⁷ but from at least two others as well. He also named other suppliers of information, including Carpenter,¹⁸ Green,¹⁹ and Keith,²⁰ to the grand jury. See Exh. 2, Transcript of First

¹⁷Henry Julian Wadleigh, a State Department economist, claimed to have given documents to Carpenter and to Chambers. See Latham, Communist Controversy 195 & n.30; Weinstein, Perjury 102-03.

¹⁸Wadleigh said he had given documents to Carpenter, who was a Communist employed by the Daily Worker; Chambers confirmed this. See Latham, Communist Controversy 195 & n.30. Carpenter's surname was really Zimmerman. See Weinstein, Perjury 603.

¹⁹This may have been P. Green, the pseudonym for the Comintern Representative to the American Communist Party whose real name was Gusev. See Chambers, Witness 246 n.*.

²⁰This may have been the "Keith" described in Chambers's book, an alleged Communist underground worker in California who later moved to New York and at one point helped set up the Baltimore photography workshop used by Chambers and his sources. See Chambers, Witness 268-69, 419-21, 424-25.

Trial 515-16, 519. Chambers recalled that Harold Ware²¹ and J. Peters²² introduced him (Chambers) to Hiss in a Washington restaurant. See Exh. 3, Transcript of Second Trial 612. Chambers also stated that he knew Hiss until Chambers broke with the Party in early 1938, and saw him once again toward the end of 1938. See id. Chambers further stated that Hiss personally gave him the four handwritten memoranda in Hiss's 30th Street Washington, D.C. residence. See Exh. 2, Transcript of First Trial 526, 527. Chambers said that he had met Hiss once in Manhattan, in 1936. See id. at 521, 528 (quoting grand jury testimony). Felix Inslerman and Green photographed documents, and Chambers himself photographed documents about ten times at William Spiegel's²³ apartment. See id. at 519-20.

²¹Harold Ware was an agricultural economist, son of the noted Communist Party organizer "Mother Bloor," and the leader of the "Ware group." See Latham, Communist Controversy 102, 159, 166. Allegations about the Ware group ranged from claims that it was a Communist policy study group to claims that it was a spy ring. See generally Weinstein, Perjury 116-38.

²²In Latham's words, J. Peters was

one of the most important Kremlin representatives to enter the United States. He . . . served as a link between the American apparatus and Soviet espionage in the United States, right hand man to Comintern representative, Gerhard Eisler, and, as chief of the Communist underground, the man in charge of the "study circles" existing among governmental employees in Washington.

Latham, Communist Controversy 63 (footnotes omitted).

²³According to Chambers, William Spiegel and his wife were Communist sympathizers whose Baltimore apartment Carpenter rented for the photography workshop. They were not part of an espionage ring. See Chambers, Witness 421 & n.*.

31. Chambers also testified about his superiors in the Soviet underground. Chambers had turned material over only to Col. Boris Bykov, see Exh. 2, Transcript of First Trial 524, whom he met every seven to ten days in movie houses between November 1936 and April 1938. See id. at 629 (quoting grand jury testimony). Chambers stated that Bykov paid him \$135 to \$150 a month in party wages plus expenses, including rent and family medical expenses. See id. at 634 (quoting grand jury testimony).

ALGER HISS'S GRAND JURY TESTIMONY

32. Hiss testified on March 16, 1948, see Exh. 2, Transcript of First Trial 2224, and on December 6 - 11, and 13 - 15, 1948, see id. at 60-61. On December 15, the day that he was indicted based on statements made that day, Hiss appeared before the grand jury at his own request. See id. at 62, 2167; Exh. 3, Transcript of Second Trial 1936. Unlike Chambers, who may have declined to answer some grand jury questions,²⁴ he claimed no Fifth Amendment or other privilege before the grand jury and answered all questions posed to him. See Exh. 3, Transcript of Second Trial 1896. Significant excerpts from Hiss's grand jury testimony were read into the record at both the first trial, see Exh. 2, Transcript of First Trial 73-74, 825-39, 2119, 2158-59, 2203-04, 2209-13, 2217-18, 2224, and the second trial. See Exh. 3, Transcript of Second Trial at 2086-2089, 2138-50, 2217-22.

²⁴"It was not until months later, when I testified before the succeeding Grand Jury, that I spoke without reserve." Chambers, Witness, 725.

33. When Hiss testified before the grand jury on March 16, 1948,²⁵ for about fifteen minutes he discussed Chambers's allegations. See Exh. 3, Transcript of Second Trial 1913, 2138-50 (quoting grand jury testimony). He denied knowing Chambers, denied ever having been a Communist or a member of a Communist front organization, and denied ever unofficially providing information to people he knew were Communist or Soviet agents. See id. 2143, 2139, 2150 (all quoting grand jury testimony); Exh. 2, Transcript of First Trial 2224.

34. Hiss described his two voluntary interviews with FBI agents, on March 25, 1946 and June 2, 1947, and the statement he had signed for the FBI on June 2, 1947 was read into the record. See Exh. 3, Transcript of Second Trial 2143-48 (quoting grand jury testimony). In this statement he discussed his association with the International Juridical Association;²⁶ he acknowledged his acquaintance with Harold Ware, Lee Pressman, Henry Collins, John Abt,²⁷ Marian Bachrach,²⁸ Alice Mendham, Victor Perlo²⁹ (whom

²⁵This was well before Chambers's first HUAC appearance of August 3, 1948 and Hiss's first HUAC appearance of August 5, 1948. See Alger Hiss, In the Court of Public Opinion (1957).

²⁶The IJA was a liberal group of attorneys interested in social reform, which published a bulletin on labor law and civil liberties cases. Hiss had been a member in 1932-33. The Attorney General listed the IJA as a Communist front organization. See Weinstein, Perjury 86.

²⁷Chambers had named Harold Ware, Lee Pressman, Henry Collins, John Abt, Nathan Witt, Charles Kramer (whose real surname was Krivitsky), and Alger Hiss as members of the Communist Ware group in the Department of Agriculture. The composition of the group was confirmed in part by Lee Pressman and in full by Nathaniel Weyl. See Latham, Communist Controversy 107-11. The Ware group was thought to be something between a

he claimed not to have seen since 1934), and Treasury Official Harold Glasser; and he categorically stated that his brother Donald was not a Communist. See id. at 2146-49 (quoting grand jury testimony).

35. The grand jury asked Hiss about his association with a number of acquaintances who Chambers claimed were members of the "Ware group." Hiss admitted that he had met Charles Krivitsky when both were working for the Department of Agriculture but stated that he had not seen him since leaving the Department around 1935. See Exh. 3, Transcript of Second Trial 2139-40 (quoting grand jury testimony). Hiss said that he did not know whether Krivitsky was a Communist but that Krivitsky never asked him for any illicit government information. See id. at 2140 (same). Hiss stated he knew Harold Ware slightly when both were in the Department of Agriculture but had not seen him since about 1934. See id. at 2140-41 (same). Hiss did not know whether Ware was a Communist and Ware did not ask him for any illicit government information. See id. at 2141 (same). Hiss stated he knew Henry Collins very well, and they had been personal friends

Communist study group and a spy ring. See id. at 118-19; Weinstein, Perjury 116-38.

²⁸Mrs. Bachrach was John Abt's sister and a writer at the national headquarters of the Communist party from 1946 to 1948. See Exh. 5, C.F. Trussell, U.S. Arms Secrets Leaked to Russia, Says House Group, N.Y. Times, Dec. 15, 1948, at 1, 25.

²⁹Chambers and Elizabeth Bentley both named Victor Perlo as the head of an underground espionage ring providing information, including secret data on aircraft production, to Bentley and thus to the Soviet Union. See Latham, Communist Controversy 159, 166.

since the age of twelve; Hiss denied any knowledge of Collins being a Communist. See id. (same). Hiss claimed that he had known Lee Pressman since high school but had not talked to him since Hiss left the Agriculture Department. See id. at 2142 (same). Hiss had no knowledge of Pressman's being a Communist, but had heard rumors to that effect; Pressman never asked Hiss for any illicit government information. See id. at 2142-43 (same). Hiss said he had met John Abt in the Department of Agriculture and had social contacts with him, which ended when Hiss left the Department. See id. at 2143 (same). Hiss admitted to having heard the same rumors about Abt as about Pressman. See id. (same).

36. Eight months later, on December 7, Hiss testified again under oath for about half an hour. See Exh. 4, Hiss Personal 2395, Notes on Appearance Before Grand Jury (December 7, 1948).³⁰ During this interview he was questioned about evidence produced by Chambers to support his story. Hiss identified three of the handwritten Baltimore documents as being definitely in his handwriting, but was unsure of the fourth. See Exh. 2, Transcript of First Trial 2209-10 (quoting grand jury testimony). Hiss told the grand jury that he routinely made handwritten notes about documents that weren't important enough to show his superiors, and that he then made oral reports to his superiors based on those notes. See id. at 2211-12 (same). He normally

³⁰ The "Hiss Personal" files are in the Hiss defense files at the Harvard University Library.

destroyed the notes after the report was given, but it was possible that the notes might have occasionally been left in his desk overnight. See id. at 2212-13 (same). He stated that he could not recall ever missing any notes from his desk. See id. at 2213 (same).

37. The next day, December 8, Hiss testified briefly about his relationship with Noel Field³¹ and his wife. See Exh. 4, Hiss Personal 2395, Notes on Appearance Before Grand Jury 4 (December 8, 1948); Exh. 2, Transcript of First Trial 2215. Hiss testified that he did not know either Hede Massing³² or a woman named Gompertz³³ and that he had never discussed Noel Field with a woman at Field's house. See id. at 4-5.

38. On December 9, Thomas Donegan, the senior Justice Department official at the grand jury, arranged an encounter between Hiss and Ms. Massing; Hiss again testified that he did not know her. See Exh. 3, Transcript of Second Trial 1897-99;

³¹Noel Field was an official in the West European division of the State Department who had been named as a Communist Party member to HUAC as early as 1938. Hiss allegedly tried to recruit Field into the Communist underground. See Latham, Communist Controversy 196-97; Weinstein, Perjury 176-77.

³²Ms. Massing claimed to have been attached to the same underground Communist apparatus as Noel Field, and was married to prominent party official Gerhard Eisler. See Latham, Communist Conspiracy 103-04, 106-07. She later wrote This Deception (1950). See id. at 105 n.14.

³³Ms. Massing used her maiden name of Gumperz in secret work and Chambers had known her as Hedda Gumperz. See Weinstein, Perjury 175 & n. She was scheduled to appear before HUAC as a "friendly witness" after Hiss was indicted. See Exh. 5, Clayton Knowles, House Spy Inquiry Adds 2 Witnesses, N.Y. Times, Dec. 20, 1948.

Exh. 4, Hiss Personal 2395, Notes on Appearance Before the Grand Jury 1-3 (Dec. 9, 1948). Hiss testified that he did not know Josephine Herbst, but that he knew of a writer who wrote under that name.³⁴ See Exh. 4, Hiss Personal 2395, Notes on Appearance Before the Grand Jury 3 (Dec. 9, 1948). When questioned again about members of the Ware group, Hiss denied ever seeing anyone named by Chambers, including specifically Witt, Pressman, Abt, White, and Collins, at Field's house, and he denied knowing Victor Perlo. See id. at 4. Hiss denied that he wrote to Collins about official business. See id.

39. On December 10, the grand jury's focus shifted to the typewritten documents. Hiss testified for about half an hour. See Exh. 4, Hiss Personal 2395, Notes on Appearance Before Grand Jury 1 (Dec. 10, 1948). He told the grand jury that Mrs. Hiss's father, Thomas Fansler, had probably given the Hisses his old typewriter (a Woodstock, hereinafter "the Fansler typewriter") when Mrs. Hiss was working on a manuscript. See id. at 2. Hiss stated he was uninterested in typewriters, could not remember any defects in the Fansler typewriter, and did not use typewriters himself. See id. at 2, 6. Hiss reported his stepson Timothy's³⁵ recollection that he had had a typewriter in his own room. See

³⁴Ms. Herbst was the former wife of John Herrmann, Harold Ware's chief assistant in the Communist underground; the couple separated in the fall of 1934. See Weinstein, Perjury 119, 120. Ms. Herbst said she knew Chambers well in the early 1930s and knew of the Ware group through him and her husband, but had never met the Hisses. See id. at 120-24.

³⁵Timothy Hobson is Priscilla Hiss's and Thayer Hobson's son, from Mrs. Hiss's first marriage.

id. at 2. Hiss stated that the Hisses had turned over to the government the three samples (the so-called "Hiss standards," Weinstein, Perjury 263) that had been typed in their house.³⁶

See id. at 3. Hiss stated that he generally dictated his personal business letters at his office, see id., and told the grand jury that after the Fansler typewriter was thrown out, the Hisses acquired a new portable typewriter, but that he did not remember its purchase. See Exh. 2, Transcript of First Trial 2115 (quoting grand jury testimony).

40. Hiss was also asked about how Chambers could have obtained the documents he had produced. Hiss hypothesized that Chambers could have walked in and taken them, or that he could have had a confederate, noting that Wadleigh had told Hiss in the grand jury waiting room that he had given some documents to Chambers. See Exh. 4, Hiss Personal 2395, Notes on Appearance Before Grand Jury 3 (Dec. 10, 1948). Hiss also repeated his earlier speculation that he might have left the notes overnight in his desk, and said that many people had access to his office. See id. at 4-5. Hiss stated on one occasion he had found a perfect stranger in his office. See Exh. 2, Transcript of First Trial at 2158-59 (quoting grand jury testimony). He explained that there was no State Department rule against taking work home, that he sometimes did so, and that he would generally take less confidential work home. See Exh. 4, Hiss Personal 2395, Notes on

³⁶These were apparently typed by Priscilla Hiss. See Weinstein, Perjury 232-33.

Appearance Before Grand Jury 4 (Dec. 10, 1948).

41. On December 11, Hiss denied discussing Mrs. Hiss's previous day's grand jury testimony with her or with his lawyers, or discussing with Mrs. Hiss who had owned any portable typewriters they had borrowed. See Exh. 4, Hiss Personal 2395, Notes on Appearance Before Grand Jury 2-3 (Dec. 11, 1948). He was asked to talk to Mrs. Hiss about persons from whom the couple might have borrowed or bought typewriters. See id. at 3. Hiss denied ever meeting either George or Ward Pigman before he saw them in the grand jury waiting room. See id. at 2. Hiss also testified about his wife's divorce and her ex-husband. See id. at 2.

42. On December 13, Hiss was recalled by the grand jury and testified for about twenty minutes. See Exh. 4, Hiss Personal 2395, Notes on Appearance Before Grand Jury 1 (Dec. 13, 1948). He was asked about the rug that Chambers had given the Hisses. See id. at 2. Hiss said that the rug had been a gift, that the Hisses had received it while living on P Street, and that they had used it regularly (rather than storing it in a closet as Chambers had claimed). See id. at 2-3. He also told the grand jury that he remembered little about receiving the rug: that he did not remember whether Chambers brought it himself, whether Hiss was home at the time, or whether Mrs. Hiss was home at the time. See Exh. 3, Transcript of Second Trial 2203-04 (quoting grand jury testimony). Hiss also testified that Chambers had not told him that he had given similar rugs to Abraham George

Silverman³⁷ and Harry Dexter White.³⁸ Hiss stated that he had first met Silverman in the grand jury waiting room, and that he did not know White socially. See Exh. 4, Hiss Personal 2395, Notes on Appearance Before Grand Jury 3 (December 13, 1948). Hiss stated that he had called family members to ask whether they lent the Hisses a typewriter, but no one he reached had done so. See id. Lastly, Hiss reiterated that he dictated his personal business correspondence at the office. See id. at 4.

43. On December 14, Hiss testified for over an hour in an effort to help clarify for the grand jurors matters relating to the authenticity of the handwritten and typed documents and on a variety of other matters. This day's testimony may have been the turning point for some grand jurors as to whether to indict Hiss.

44. Hiss told the grand jury that Assistant Attorney General Alexander Campbell had told him in the waiting room, in McLean's (Hiss's lawyer's) presence, that he would be indicted, that his wife was in it with him, and that he should tell the truth. See Exh. 4, Hiss Personal 2395, Notes on Appearance Before Grand Jury 4-5 (December 14, 1948). Hiss told the jurors that he had been testifying as truthfully as possible, that he had been cooperative, and that he was proud of his years of

³⁷According to Chambers, Silverman passed documents from Harry Dexter White to Chambers. See Latham, Communist Controversy 172, 179.

³⁸Elizabeth Bentley named Harry Dexter White, a high-ranking Treasury Department official, as one of the sources for the Silvermaster espionage group. Chambers named White as one of his four original sources. See Latham, Communist Controversy 175, 179.

government service. See id. at 4.

45. Hiss identified a letter to the headmaster of Timothy's school as being in his handwriting, and identified a typed statement that had presumably accompanied the letter as probably having been typed on the Fansler typewriter. See Exh. 2, Transcript of First Trial 825-34, 839 (quoting grand jury testimony); Transcript of Second Trial 2086-89 (same); Exh. 4, Hiss Personal 2395, Notes on Appearance Before Grand Jury 2-3 (Dec. 14, 1948). Hiss said that he had no doubt that the statement had been typed at home, probably by Mrs. Hiss. See Exh. 4, Hiss Personal 2395, Notes on Appearance Before Grand Jury 3 (Dec. 14, 1948). He also discussed other typewriting exhibits, saying that he had no further information about the specimens. See id. at 8. He stated that he did not know what typing systems ("touch" or "two-fingered," for example) Mrs. Hiss and Timothy used. See id. at 9 (Dec. 14, 1948). He said that other than the Fansler typewriter, he and his wife had possessed only portable typewriters, but Hiss could not remember their makes. See Exh. 3, Transcript of Second Trial 2089 (quoting grand jury testimony); Exh. 4, Hiss Personal 2395, Notes on Appearance Before Grand Jury 9 (Dec. 14, 1948). Hiss also stated that Mrs. Hiss's father had given the Fansler machine to the couple before 1933, but he could not remember what had happened to it. See Exh. 2, Transcript of First Trial 834, 838.

46. Hiss testified that he had last seen Chambers no later than the late Spring of 1936, when Hiss had given him the Ford

car.³⁹ See Exh. 4, Hiss Personal 2395, Notes on Appearance Before Grand Jury 6 (Dec. 14, 1948). He had no knowledge that Chambers had ever been in the Hisses' Volta Place house but noted that the Hisses did not always lock their door. See id.

47. Hiss stated he thought that Chambers was "of unsound mind and not normal." See id. Hiss speculated, based on the dates of the documents produced by Chambers, that Chambers might have obtained them in two "'grabs'" about the middle of February and April first, and that he might have taken the typewriter and kept it for some time without the Hisses being aware of it. Id. at 7. Hiss did not recall missing any items from the Volta Street house. See id.

48. Hiss denied Chambers's allegations about visits by the Hisses to Baltimore or along the Delaware river. See id.

49. As Hiss remembered it, the Chamberses' visit to the P Street house immediately preceded the Chamberses' move to the 28th Street apartment. See id. at 9. The visit was not intended as a permanent move. See id. Hiss also testified about the Chamberses' move to the 28th St. apartment. See id.

³⁹Hiss claimed that he had given Chambers the car in mid-1935 as part of the agreement to sublease the 28th Street apartment to Chambers. See Weinstein, Perjury 28, 41-42. Chambers claimed that Hiss had insisted on turning the Ford over to the Communist Party to be given to a needier member, and that this had been accomplished through a Washington service station or car-lot owner. See id. at 19, 41. On July 23, 1936, Hiss assigned the Ford to the Cherner Motor Company and the car was transferred to William Rosen. See id. at 41-42. At his second trial, Hiss testified that he had given Chambers the car in the Spring of 1936. See id. at 429.

50. Hiss denied knowing Maxim Lieber⁴⁰ and lying to protect anyone. See id. at 8.

51. On December 15, Hiss asked to appear before the grand jury, and testified twice. See id. at 2, 7 (Dec. 15, 1948). He outlined several hypotheses about how Chambers obtained access to the documents he had produced. See id. at 5-8; but cf. Exh. 3, Transcript of Second Trial 2219 (quoting grand jury testimony) (claiming not to have any further explanation of how Chambers might have obtained the Fansler typewriter). Chambers might have obtained access to the Fansler typewriter by entering the Hisses' house without their knowing it or by acquiring the typewriter after the Hisses had disposed of it. See id. at 5. Hiss speculated that Chambers might have obtained the handwritten notes and State Department documents personally or through a confederate. See id. at 5-6. Hiss stated his belief that Chambers was trying to "frame" him in order to destroy him for some incomprehensible psychological reason. Id. at 7-8. Hiss stated he had had no personal relations with Chambers that would give the latter a motive to frame him. See id. at 8.

52. Hiss summarized for the grand jury his experts' conclusions about Chambers's "strange disordered psychology," and encouraged them to call his expert, Dr. Carl Binger. See Exh. 3,

⁴⁰According to Chambers, Lieber was a literary agent and underground Communist functionary (code-named Paul) who worked with Chambers and was involved with the American Feature Writers Syndicate. See Weinstein, Perjury 111-14; Chambers, Witness 355. He and Chambers rented a summer cottage together in 1935. See id. at 130.

Transcript of Second Trial 2217-19; Exh. 4, Hiss Personal 2395, Notes on Appearance Before Grand Jury 2-3 (Dec. 15, 1948).

(Apparently neither grand jury called him. However, Binger was called as a defense witness during the perjury trials. See Weinstein, Perjury 391-93 (noting that Binger was not actually allowed to testify about Chambers at the first trial), 432-37.)

53. Hiss reiterated that he had first seen Chambers in late 1934 or early 1935, in connection with investigations Hiss had conducted while working for the government in late 1934. See Exh. 4, Hiss Personal 2395, Notes on Appearance Before Grand Jury 3 (Dec. 15, 1948). Hiss believed he last saw Chambers in May or June 1936, when he gave him the car. See id. at 3-4. Hiss was able to fix the date because he gave the car away between the winter of 1935-36 and the Hisses's move into the 30th Street house in late June, 1936. See id.

54. In explaining how he knew Chambers as "George Crosley," Hiss told the jury that Chambers had a number of pseudonyms, of which Hiss had learned through discovery in the libel suit and independent investigation. See id. at 4.

55. Hiss reiterated that he was not shielding his wife and that she needed no shielding. See Exh. 4, Hiss Personal 2395, Notes on Appearance Before Grand Jury 4 (Dec. 15, 1948). Hiss said that he had discussed his previous day's testimony with his lawyer in Mrs. Hiss's presence. See id. at 6-7.

56. Hiss denied ever seeing Eleanor Nelson⁴¹ before he saw her in the witnesses' waiting room. See Exh. 4, Hiss Personal 2395, Notes on Appearance Before Grand Jury 6 (Dec. 15, 1948). He thought he had given dictation to Anna Belle Newcomb, Sayre's stenographer. See id. at 8.

57. Hiss returned to several questions he had discussed during previous appearances. He testified that the Hisses had given an old piano to Timothy's music teacher and had given a used radio to their maid's son, see Exh. 4, Hiss Personal 2395, Notes on Appearance Before Grand Jury 6 (Dec. 15, 1948); he also recalled the theft of about \$30 from the Volta Place house and the disappearance of a diamond wristwatch of Mrs. Hiss's. See Exh. 3, Transcript of Second Trial 2219-20 (quoting grand jury testimony); Exh. 4, Hiss Personal 2395, Notes on Appearance Before Grand Jury 6 (Dec. 15, 1948).

58. Hiss had previously testified that the couple had had the Fansler typewriter when they lived at P Street and at 30th Street, and his "impression was" that they had had it as late as when they lived in Volta Place. Exh. 2, Transcript of First Trial 1941-42, 2063. Hiss stated that his own experts had advised him the Baltimore papers were typed on a Woodstock typewriter,⁴² see id. at 2057, that he was confident the Fansler typewriter had been given away, and that it had probably been

⁴¹According to Chambers, Ms. Nelson headed a Communist underground apparatus. See Chambers, Witness 31.

⁴²The Fansler typewriter had been a Woodstock. See Weinstein, Perjury 258-59, 228.

given to the Salvation Army or a similar organization, or to "the junk man." See id. at 2066, 2216. On December 10, 14, and 15, Hiss told the grand jury that he did not remember the disposition of the Fansler typewriter. See id. at 2217-19 (quoting grand jury testimony); Exh. 3, Transcript of Second Trial 2220 (quoting grand jury testimony).

PRISCILLA HISS'S GRAND JURY TESTIMONY

59. Priscilla Hiss testified before the grand jury on December 10, 1948. See Exh. 2, Transcript of First Trial 2425. Substantial excerpts from her grand jury testimony were read into the record at the first trial. See id. at 2375-77, 2379-80, 2396-96a, 2423-2434.

60. Mrs. Hiss told the grand jury that she had met Chambers and knew him as George Crosley. They had met in the Hisses' apartment, on purely social calls, two or three times before the Crosleys came to look at the apartment to see whether they were interested in subletting it. See Exh. 2, Transcript of First Trial 2376-77 (quoting grand jury testimony), 2379-80 (same); Exh. 4, Hiss Personal 2395, Notes on Mrs. Hiss's Appearance Before the Grand Jury 1 (Dec. 10, 1948). She testified that Crosley and Hiss were not very intimate, see Exh. 2, Transcript of First Trial 2379 (quoting grand jury testimony), that the Hisses saw Crosley five or six times altogether at the P Street house, see Exh. 4, Hiss Personal 2395, Notes on Mrs. Hiss's Appearance Before the Grand Jury 3 (December 10, 1948),

and that she had never talked to Crosley about his activities in Washington, D.C. See Exh. 2, Transcript of First Trial 2380 (quoting grand jury testimony). Mrs. Hiss also testified about the Hiss's other friends, including Noel Field and his wife, and about the Hisses' maids. See Exh. 4, Hiss Personal 2395, Notes on Mrs. Hiss's Appearance Before the Grand Jury 2-3, 5-6, 11 (Dec. 10, 1948).

61. Mrs. Hiss testified in detail about the Ford car the Hisses had owned. She explained that Hiss had given the car to Crosley in the early summer of 1935, but that it was possible that the Hisses might have had the car later. See id. at 3, 5. Even though the car had high sentimental value, the Hisses gave it to Crosley because they had no further use for it and it was not worth selling. See id. at 3-4.

62. Mrs. Hiss testified that she had not known Harold Ware, but that Witt, Pressman, Abt, and Collins had been to the Hisses' home, the former three with their wives. See id. at 7.

63. Mrs. Hiss told the grand jury that the couple had had the Fansler typewriter from 1935 until after they moved into the Volta Place house at the end of December 1937. See Exh. 2, Transcript of First Trial 2423-2427 (quoting grand jury testimony). She remembered very little about the typewriter. See id. at 2425-2426 (same); Exh. 4, Hiss Personal 2395, Notes on Mrs. Hiss's Appearance Before the Grand Jury 9 (Dec. 10, 1948). Mrs. Hiss said that she had used the typewriter very little after her book was completed in 1934, and she did not remember ever

typing anything for her husband, nor did she remember the specific occasions when she had used the typewriter. See Exh. 2, Transcript of First Trial 2428-2432 (quoting grand jury testimony). Mrs. Hiss stated she never gave Chambers permission to use the typewriter. See Exh. 4, Hiss Personal 2395, Notes on Mrs. Hiss's Appearance Before the Grand Jury 11 (Dec. 10, 1948). Mrs. Hiss did not remember how the typewriter was disposed of, but (consistent with her husband's statement) said they might have given it to a junk man or the Salvation Army. See Exh. 2, Transcript of First Trial 2426 (quoting grand jury testimony); Exh. 4, Hiss Personal 2395, Notes on Mrs. Hiss's Appearance Before the Grand Jury 10 (Dec. 10, 1948). The Hisses had made "'violent efforts'" to locate documents typed on the Fansler typewriter, Exh. 2, Transcript of First Trial 2430 (quoting grand jury testimony), and they had turned over these documents to the FBI. See Exh. 4, Hiss Personal 2395, Notes on Mrs. Hiss's Appearance Before the Grand Jury 8 (Dec. 10, 1948).

64. Mrs. Hiss thought the Hisses had later obtained a portable typewriter, possibly for Timothy to use. See id.

65. Mrs. Hiss categorically denied Chambers' accusations against her husband. See id. at 12.

66. Mrs. Hiss was also questioned about her education and career, her first marriage, and her son, Timothy (Alger Hiss's stepson). See id. at 1, 6, 7, 9-12.

OTHER GRAND JURY WITNESSES

67. Exhibit 1 lists all the witnesses known to have testified before the grand jury and, to the best of my knowledge, whether they are still alive.

68. Harry Dexter White, whose handwritten memos Chambers produced (and which are considered part of the Baltimore papers), appeared before the grand jury on March 24 and 25, 1948. White's testimony, of which virtually nothing is known, is of particular interest because he had little time to respond to the charges against him. Though he testified at length before HUAC on August 13, 1948, he died of a heart attack three days later.

69. On December 6, 1948, the grand jury reconvened. Special Investigator for HUAC William Wheeler, Jr. gave testimony concerning the pumpkin papers and introduced prints of them into evidence. See Exh. 5, Alexander Feinberg, Chambers Says Hiss Passed U.S. Data to Him for Russia; Grand Jury Reopens Case, N.Y. Times, Dec. 7, 1948, at 1, 3. Abraham George Silverman, who had testified before the grand jury in September 1947, testified again. See Exh. 4, Serial 3221 (Mar. 30, 1949). The grand jury also heard testimony from Henry Collins Jr.⁴³ and an unnamed FBI agent. See id. at 3.

70. On December 7, HUAC investigator Donald Appell appeared before the grand jury. See Exh. 5, Alexander Feinberg, Friend

⁴³Collins was a former military government official and then Executive Director of the American Russian Institute whom Chambers had accused of providing a meeting place for the "elite Communist underground," see Exh. 5, Alexander Feinberg, Chambers Says Hiss Passed U.S. Data to Him for Russia; Grand Jury Reopens Case, N.Y. Times, Dec. 7, 1948, at 3, and of being a member of the Ware group. See Latham, Communist Controversy, 107-11.

Hid Stolen Films for Years, Chambers Says, N.Y. Times, Dec. 8, 1948, at 1, 3. Hiss saw Special Assistant to the Attorney General Raymond P. Whearty tell Silverman that he would not testify that day but that Whearty would like to stay in touch through Silverman's lawyer. See Exh. 4, Hiss Personal 2395, Notes on Appearance before Grand Jury (Dec. 7, 1948).

71. Henry Julian Wadleigh,⁴⁴ a crucial government witness during the Hiss perjury trials, testified before the grand jury on December 8. Wadleigh told Hiss that day that his lawyer had instructed him not to answer the grand jury's questions. See Exh. 4, Hiss Personal 2395, Notes on Appearance before Grand Jury 2 (Dec. 8, 1948). However, on December 11 he waived his Fifth Amendment privilege and testified about documents he had delivered, and about his connection to Chambers and Carpenter through Eleanor Nelson. See Exh. 3, Transcript of Second Trial 1190-93, 1195. Wadleigh's testimony helped to support the basic thrust of Chambers's testimony.

72. The Times reported that Donald Hiss (Alger's brother), David Carpenter,⁴⁵ Nathan Levine,⁴⁶ and an unidentified young

⁴⁴Wadleigh admitted to passing State Department materials to Chambers. See Weinstein, Perjury 102-03.

⁴⁵Wadleigh testified that he gave material to David Carpenter, who was a Communist employed by the Daily Worker at the time of the Hiss trials. See Latham, Communist Controversy 195 n.30.

⁴⁶Nathan Levine was Chambers's nephew. He kept the Baltimore and pumpkin papers for Chambers from 1938 until late 1948. See Exh. 5, Alexander Feinberg, Friend Hid Stolen Films for Years, Chambers Says, N.Y. Times, Dec. 8, 1948, at 1, 3; Weinstein, Perjury, 151-52.

brunette testified on December 8. See Exh. 5, Alexander Feinberg, Friend Hid Stolen Films for Years, Chambers Says, N.Y. Times, Dec. 8, 1948, at 1, 3. The brunette may have been Hede Massing, who also testified on December 8. See Exh. 4, Serial 62-9324-A76 (Aug. 27, 1951). Hiss noted that Carpenter testified only briefly. See Exh. 4, Hiss Personal 2395, Notes on Appearance Before Grand Jury 5-6 (Dec. 8, 1948). Henry Collins, Jr. later claimed to have appeared before the grand jury on December 8, and to have "'categorically denied'" all of Chambers's accusations. See Exh. 5, Alexander Feinberg, Grand Jury to Get Secret Microfilms, N.Y. Times, Dec. 12, 1948, at 1, 65. Hiss saw Collins in the grand jury waiting room; based on comments by Collins and Whearty, Hiss believed that Collins did not claim any privilege before the grand jury. See Exh. 4, Hiss Personal 2395, Notes on Appearance before Grand Jury 1, 3 (Dec. 8, 1948). Despite the public denial, Collins did tell the grand jury during a December appearance that he had met Chambers in Washington in 1934 or 1935, and that he had seen him on one or two occasions since. See Weinstein, Perjury 247 (citing a memo by Collins summarizing his grand jury appearance, which Collins examined in the office of one of Hiss's lawyers). Collins remembered his acquaintance with Chambers as so casual that he did not recall the name Chambers had been using at the time.

73. On December 9, Donald Hiss testified for about forty-five minutes before the grand jury. See Exh. 4, Hiss Personal 2395, Notes on Appearance Before the Grand Jury 1 (Dec. 9, 1948).

He told the grand jury that he had never known Chambers. See Exh. 3, Transcript of Second Trial 1704-06; Exh. 4, Hiss Personal 2395, Donald Hiss (Jan. 26, 1949). Like his brother, he did not claim any Fifth Amendment privilege. See Exh. 3, Transcript of Second Trial 1705-06. There were at least five other witnesses that day, including HUAC investigator Robert E. Stripling, who had been asked to testify, and who was accompanied by another HUAC staff member, Donald Appell. See Exh. 5, Russell Porter, Spy Inquiry Here Unaffected by Renewed Truman Attack, N.Y. Times, Dec. 10, 1948, at 1.

74. On December 10, Mrs. Hiss and Henry Julian Wadleigh testified before the grand jury. See Exh. 5, Alexander Feinberg, Chambers Resigns His Magazine Post, N.Y. Times, Dec. 11, 1948, at 1, 3. Hiss saw George Pigman in the grand jury waiting room. See Exh. 4, Hiss Personal 2395, Notes on Appearance Before Grand Jury 1 (Dec. 10, 1948).

75. On December 11, Hiss saw both the Pigman brothers (William Ward⁴⁷ and George) in the waiting room, and George was called to testify. See Exh. 4, Hiss Personal 2395, Notes on Appearance Before Grand Jury 1 (Dec. 11, 1948). The Times reported that both brothers, as well as Wadleigh and a "surprise witness," were seen at the Federal Building and presumed to have testified. Exh. 5, Alexander Feinberg, Grand Jury to Get Secret

⁴⁷Chambers named William Ward Pigman, a Bureau of Standards employee from 1930 to 1938 and from 1941 to 1944, as a source of secret documents; Pigman denied the accusation. See Exh. 5, Alexander Feinberg, Grand Jury to Get Secret Microfilms, N.Y. Times, Dec. 12, 1948, at 1, 65.

Microfilms, N.Y. Times, Dec. 12, 1948, at 1, 65.

76. On December 13, Hiss observed that both Pigman brothers and Eleanor Nelson⁴⁸ were called to testify. See Exh. 4, Hiss Personal 2395, Notes on Appearance Before Grand Jury 1 (Dec. 13, 1948). On this day, Congressman Richard Nixon also appeared at his own request. He brought with him the pumpkin films. Nixon believed the film provided proof of Hiss's activities and wanted to put it before the grand jury. Nixon's appearance prompted the Justice Department to engage in "efforts to pry him loose from the films." See Exh. 5, Alexander Feinberg, Compromise Fixes Spy Film Custody After Long Fight, N.Y. Times, Dec. 14, 1948, at 1. See Exh. 5, C.P. Trussell, Truman Maintains 'Red Herring' View, N.Y. Times, Dec. 17, 1948, at 1, 6. He told the grand jury that Attorney General Tom Clark had instructed the FBI not to cooperate with HUAC, and that that was the reason HUAC had taken the films to the Veterans' Administration, rather than to the FBI, for development. See id.

77. Based on Nixon's well-publicized belief in Hiss's guilt and Chambers's honesty, at the second perjury trial Hiss's counsel argued that Nixon had pleaded with the grand jury to indict Hiss rather than Chambers and that Nixon's intervention was an improper interference with the grand jury by a member of another branch of government. As noted above, Nixon likely feared that the grand jury would indict Chambers instead of Hiss.

⁴⁸Ms. Nelson was a Department of Labor employee and a member of the Communist Wheeler group. See Latham, Communist Controversy 127-28.

Hiss's motion was denied. See Exh. 3, Affidavit of Edward C. McLean, Esq., Notice of Motion to Inspect Grand Jury Minutes and Affidavit, Second Trial, included in Transcript of Second Trial 21, 30-31.

78. On December 14, Adolf Berle testified for several hours before the grand jury. See Exh. 5, Alexander Feinberg, Berle Alters View on Red Peril Here, N.Y. Times, Dec. 15, 1948, at 1. Both Esther Chambers (Whittaker's wife) and Henry Julian Wadleigh also testified; the latter told the Times that he had answered more questions for the grand jury than he had for HUAC. See id. at 1, 28; Exh. 3, Transcript of Second Trial 1067 (Esther Chambers appeared before grand jury). Franklin Victor Reno⁴⁹ and his brother Philip Reno were scheduled to appear before the grand jury and the Times presumed that they had done so. See Exh. 4, Serial 100 (Dec. 13, 1948); Exh. 5, Alexander Feinberg, Berle Alters View on Red Peril Here, N.Y. Times, Dec. 15, 1948, at 1, 28. Hiss recalled that he saw a number of people he didn't recognize in the waiting room on the fourteenth, as well as Mr. Miller, Philip Reno and his brother, Isaac Don Levine⁵⁰ (who left

⁴⁹On December 11, Reno had told FBI agents that "he had turned over materials from the Aberdeen Proving Grounds" (an Army weapons testing site) in 1937-38. Weinstein, Perjury 249; see also Exh. 5, C.P. Trussell, U.S. Arms Secrets Leaked to Russia, Says House Group, N.Y. Times, Dec. 15, 1948, at 1, 25. Reno also admitted that he had been involved in an underground antimilitary organization of the Communist Party in D.C. and Baltimore. See Exh. 4, Serial 100, at 4-5 (Dec. 13, 1948).

⁵⁰Levine, an editor of the anti-Communist monthly Plain Talk, had arranged the initial meeting between Chambers and Adolf Berle, then Assistant Secretary of State. See Weinstein, Perjury 13, 243-44, 292.

before being called), and Adolf Berle. See Exh. 4, Hiss Personal 2395, Notes on Appearance Before Grand Jury 1-2 (Dec. 14, 1948).

79. An affidavit filed by Alger Hiss and journalist William Reuben in support of a 1976 motion to open some of these grand jury records reported that FBI Special Agent Courtland Jones also testified before the grand jury on December 14 and introduced in evidence a number of typewriting exemplars. Exh. 6, Affidavit of James Michael Pruitt at 5, Hiss v. Department of Justice, No. 76 Civ. 4672 (S.D.N.Y.) (citing Serial 225). FBI document examiner Ramos Feehan⁵¹ then testified before the grand jury that the typewriting on two letters from the Hiss household introduced by Special Agent Jones was identical with typewriting on the Baltimore documents. Id. at 5-6 (citing Serial 281). Feehan reportedly also introduced evidence regarding the handwriting of Alger Hiss, and the handwritten notes produced by Whittaker Chambers that were in Hiss's handwriting. Id. (citing Serial 239). Leaks permitted the New York Post to report that government experts testified that Chambers' Baltimore Documents were typed on the Fansler machine, and that this testimony was crucial to Hiss's indictment. Id. at 6 (citing N.Y. Post, Dec. 17, 1948). The Times later reported that the testimony of FBI agents about the similarity between the typed State Department

⁵¹For historical purposes Feehan's grand jury testimony is particularly important. Feehan's testimony regarding the similarity between the Hiss standards and the Baltimore documents is considered to have been critical in convincing the grand jury of Hiss's guilt. See Weinstein, Perjury 263. Feehan also testified at both trials. See id. at 389-90, 424.

documents and documents typed on the Fansler typewriter was "'awfully important'" in securing the indictment. Exh. 5, Alexander Feinberg, Sayre Will Appear Before Spy Jurors to Identify Papers, N.Y. Times, Dec. 19, 1948, at 1, 3 (quoting "a high Government official").

80. On December 15, former Assistant Secretary of State Francis B. Sayre testified to the grand jury about the significance of various documents, apparently from among the Baltimore and pumpkin papers. See Exh. 3, Transcript of Second Trial 1502-04, 1516, 1520. Silverman was also called on December 15, apparently prepared to testify freely, and Wadleigh was in the waiting room but was not called (instead, a subpoena to appear before the second grand jury was issued to him). See Exh. 4, Hiss Personal 2395, Notes on Appearance Before Grand Jury 1 (Dec. 15, 1948); Exh. 5, Russell Porter, Hiss Indicted for Perjury in Communist Spy Inquiry; New Jury to Meet Today, N.Y. Times, Dec. 16, 1948, at 1, 3.

81. William Rosen⁵² claimed Fifth Amendment privilege while testifying before the grand jury and was held in contempt by Judge Rifkin. See Exh. 3, Transcript of Second Trial at 859, 922; Rosen Wins Appeal in Hiss Auto Case, N.Y. Times, Apr. 26, 1949.

⁵²Had he agreed to testify, Rosen likely could have explained the chain of title of Hiss's Ford car. Instead, he successfully claimed Fifth Amendment privilege. Hiss claimed he gave the car to Chambers but Chambers claimed Hiss gave the car to the Communist underground. See Exh. 5, Rosen Wins Appeal in Hiss Auto Case, N.Y. Times, Apr. 26, 1949.

82. As discussed above, it was unclear, almost to the last moment of the first grand jury's existence, whether Chambers, Hiss, or both would be indicted. On December 15, 1948, the last day of the grand jury's term, the panel returned an indictment only against Alger Hiss on two counts for perjury. See Exh. 3, Hiss Indictment.

THE SECOND GRAND JURY

83. At the time the indictment was handed up to Judge Clancy, the grand jury issued a statement that it had been unable to complete its work and recommended that its inquiry be continued by the successor grand jury. See Exh. 5, Russell Porter, Hiss Indicted for Perjury in Communist Spy Inquiry; New Jury to Meet Today, N.Y. Times, Dec. 16, 1948, at 1, 3. On December 16 the twenty-three members of the successor grand jury were selected and sworn in. See Exh. 5, Russell Porter, New Spy Documents Show 1937 Nazis' Overtures to US; Hiss Freed on \$5,000 Bail, N.Y. Times, Dec. 17, 1948, at 1, 5 (also listing names, occupations, and addresses of newly impanelled grand jurors).

84. FBI documents in the Hiss defense file support the Times's reports that the early proceedings before the successor grand jury continued the investigation into Chambers's espionage charges. Exh. 5, Alexander Feinberg, New Data on Spies Brought out Here, N.Y. Times, Dec. 18, 1948, at 1, 2 ("The Hiss matter . . . was not closed with his indictment, and he will have an opportunity to appear before the new grand jury if his attorney

so desires."). The successor grand jury continued the inquiry into both the Hiss-Chambers controversy and apparently into the conduct of the Hiss investigation itself, hearing witnesses from the Department of Justice and from HUAC. The jury was also expected to investigate Elizabeth Bentley's allegations, which did not implicate Hiss. See Exh. 5, Russell Porter, New Spy Documents Show 1937 Nazis' Overtures to US; Hiss freed in \$5,000 Bail, N.Y. Times, 17 Dec. 1948, at 1. On April 26, 1949, the grand jury returned a presentment recommending that the espionage laws be tightened. See Exh. 5, Thomas P. Ronan, Grand Jury Urges Tougher Spy Laws, N.Y. Times, Apr. 27, 1949, at 1, 7; Exh. 5, Presentment of Grand Jury Warning on Espionage, id. at 10 (reprinting presentment) [hereinafter Presentment]. The same grand jury later indicted William Remington, but that investigation was not a part of the Hiss-Chambers controversy.

85. On December 16, 1948, the day the successor grand jury was sworn in, it was briefed by Assistant Attorney General Alexander Campbell, Special Assistant to the Attorney General Thomas J. Donegan, and Special Assistant to the Attorney General Raymond P. Whearty, but heard no witnesses. See Exh. 4, Serial 342 (Dec. 16, 1948). Alexander Campbell was head of the Justice Department's Criminal Division and apparently supervised the inquiry into the Hiss-Chambers controversy in December 1948. See Weinstein, Perjury 156-57, 163-65, 240-41, 245. Thomas Donegan was the senior Justice Department official at the grand jury. See id. at 263.

86. On December 17, Chambers and Henry Julian Wadleigh were both scheduled to testify, but only Chambers appeared. See Exh. 4, Serial 342 (Dec. 16, 1948); Exh. 5, Alexander Feinberg, New Data on Spies Brought out Here, N.Y. Times, Dec. 18, 1948, at 1, 2. After an introduction by Donegan, Chambers testified in detail about his early Communist Party activities. See Exh. 4, Serial 346 (Dec. 17, 1948).

87. Grand jury subpoenas for Francis B. Sayre⁵³ and his secretary, Anna Belle Newcomb, were prepared December 17, and Wadleigh was scheduled to testify early the week of December 20th. See Exh. 4, Serial 346 (Dec. 17, 1948). Sayre and Ms. Newcomb were served with the subpoenas on December 19. See Exh. 5, Alexander Feinberg, Sayre Back, 'Eager' to Aid Spy Inquiry; 'Had' Faith in Hiss, N.Y. Times, Dec. 20, 1948, at 1.

88. On December 20, the Pigman brothers were the only grand jury witnesses. See Exh. 5, Alexander Feinberg, Sayre Wins Delay in Testifying Here, N.Y. Times, Dec. 21, 1948.

89. On December 21, Chambers appeared before the grand jury, see Exh. 4, Serial 472 (Dec. 21, 1948), as did William Ward Pigman and Henry Julian Wadleigh. See Exh. 5, Alexander Feinberg, Inquiry Confined to Early Charges, N.Y. Times, Dec. 22, 1948, at 1.

90. On December 22, the grand jury heard four witnesses and then adjourned until January 3. See Exh. 5, Russell Porter, Spy

⁵³Hiss had worked directly for Sayre when the latter was Assistant Secretary of State. See David M. Oshinsky, A Conspiracy So Immense 99-100 (1983).

Case Jury Hears Sayre, Then Recesses Until Jan. 3, N.Y. Times, Dec. 23, 1948, at 1, 8. Francis B. Sayre testified for an hour and a half, and afterward implied to reporters that Donegan had asked him how many people had access to the files that Chambers had obtained. See id. Anna Belle Newcomb appeared only briefly. See id. Dr. Max Yergan⁵⁴ and George Hewitt⁵⁵ also appeared. See id.

91. An undated FBI document, apparently from early January 1949, summarizes a day of grand jury proceedings where Chambers was the main witness and Horace A. Ingram also testified. According to Donegan, neither he nor the grand jury believed Ingram, who was excused from testifying further. See Exh. 4, Serial 1277 (Jan. 2, 1949?).

92. On January 5, 1949, Felix August Inslerman⁵⁶ testified and was asked whether he ever signed security statements or oaths when working for companies including the Glenn L. Martin Company, the Republic Aviation Company, and the General Electric

⁵⁴Yergan was a former president of the National Negro Congress, and a former executive editor of the Council on African Affairs. He withdrew from the latter position in a row with a pro-Communist faction. See Exh. 5, Russell Porter, Spy Case Hears Sayre, Then Recesses Until Jan. 3, N.Y. Times, Dec. 23, 1948, at 1, 8. Yergan named Donald Hiss's sister-in-law Cynthia Jones as a Communist to HUAC. See Weinstein, Perjury 267.

⁵⁵Hewitt was a "former head of the Communist party's Negro section" under the name Tim Holmes, but renounced Communism in 1944. Exh. 5, Russell Porter, Spy Case Hears Sayre, Then Recesses Until Jan. 3, N.Y. Times, Dec. 23, 1948, at 1, 8.

⁵⁶Chambers alleged that Felix Inslerman photographed documents, including the pumpkin papers, in Baltimore for the Communist underground. See Chambers, Witness 422-23.

Corporation. Inslerman's answers were vague. See Exh. 4, Serial 729 (Jan. 5, 1949).

93. On January 12, Felix Inslerman's wife Elizabeth was the only witness. See Exh. 4, Serial 907 (Jan. 12, 1949).

94. On January 13, after the grand jury session ended, the Inslermans' lawyer told Donegan "you almost had them today," suggesting that some damaging information had almost been revealed. Exh. 4, Serial 1134, at 2 (Jan. 13, 1949).

95. Felix and Elizabeth Inslerman were scheduled to testify on January 18. See Exh. 4, Serial 1134 (Jan. 13, 1949).

96. Inslerman, Chambers, and Carl Amatneik were scheduled to testify on January 19. See Exh. 4, Serial 1303 (Jan. 18, 1949), 1312 (Jan. 18, 1949).

97. On January 20, 1949, Amatneik finished testifying. Although he was more cooperative than previously, FBI agent Scheidt felt that "nothing of particular value" had been secured. Exh. 4, Serial 1090 (Jan. 20, 1949). Felix and Elizabeth Inslerman remained under subpoena but were not scheduled to testify again. See id.

98. Chambers was scheduled to testify on January 25. See Exh. 4, Serial 1090 (Jan. 20, 1949).

99. Hans Inslerman (Felix's brother) and J. Peters⁵⁷ were scheduled to testify on January 26. See id.

100. On January 31, a subpoena was to be served on Harold

⁵⁷Peters was the head of the U.S. Communist underground. See Latham, Communist Controversy 63.

Glasser.⁵⁸ See Exh. 4, Serial 1524 (Jan. 31, 1949).

101. On February 2, Hans Inslerman testified. See Exh. 4, Serial 2900 (Feb. 21, 1949?).

102. On February 3, William Spiegel and Anna Stiffman Spiegel, Whittaker Chambers, and Maxim Lieber testified. See id.

103. On February 8, Maxim Lieber and Harold Glasser testified. See id.

104. On February 9, Harold Glasser and Meyer Schapiro⁵⁹ testified. See id.

105. On February 10, Isaac Don Levine⁶⁰ testified. See id.

106. On February 15, Whittaker Chambers, Hede Massing, and Isidore Miller testified. See id. Ms. Massing testified that she had tried to develop Laurence Duggan⁶¹ as an espionage

⁵⁸Elizabeth Bentley claimed that Glasser had been an underground contact of hers who had been transferred to a different underground group. Chambers corroborated Bentley's assertions regarding Glasser's role in the underground. Charles Kramer (Krivitsky) told Ms. Bentley that Hiss had taken Glasser away from her. See Weinstein, Perjury 316.

⁵⁹Schapiro and Chambers were close friends, and Chambers communicated extensively with Schapiro during and just after Chambers's break with the Communist party. Their friendship cooled during the Hiss trials. See Weinstein, Perjury 272-95 passim, 460, 483.

⁶⁰Levine, an editor of the anti-Communist monthly Plain Talk, had arranged the initial meeting between Chambers and Adolf Berle, then Assistant Secretary of State. See Weinstein, Perjury 13, 243-44, 292.

⁶¹Duggan, a former State Department official, was named by Chambers as a probable Communist sympathizer but not a spy. See Exh. 5, Foul Play Hinted by Welles, Mundt in Duggan's Death, N.Y. Times, Dec. 22, 1948, at 1. On December 20, 1948, Duggan fell to his death in New York. For a discussion of the controversy surrounding Duggan's untimely death, see Weinstein, Perjury 269-70, 466.

contact but he had refused. Ms. Massing saw Duggan as an intellectual leftist who was not involved with the Soviet Union despite being recommended to her by people such as Noel Field and Margaret Young (a Daily Worker correspondent). See Exh. 4, Serial 69-9324-A76 (Aug. 27, 1951).

107. Nathan Witt testified before the grand jury, probably in February. See Exh. 4, Serial 2638 (undated).

108. On February 24, Lee Pressman testified. See Exh. 4, Serial 2245 (Feb. 24, 1949). Richard and Virginia Louis were also scheduled to testify that day, and Anna Louise Strong was scheduled to be subpoenaed and possibly to testify that day. See Exh. 4, Serial 2638 (undated).

109. On March 30, the grand jury conferred in an executive session and told Donegan that it decided that it wanted to hear the testimony of Representatives Nixon and Mundt, Stripling (the chief HUAC investigator), HUAC Research Director Benjamin Mandel,⁶² and Assistant Attorney General Alexander Campbell in the near future. See Exh. 4, Serial 3021 (Mar. 30, 1949); Exh. 5, Alexander Feinberg, New Data on Spies Brought out Here, N.Y. Times, Dec. 18, 1948, at 1, 2. Donegan did not know why the grand jury made this request. See Exh. 4, Serial 3021 (Mar. 30, 1949). Donegan also received a copy of a letter from Alexander Campbell to HUAC asking Nixon and Representative Harold H. Velde to appear before the grand jury. See id. The grand jury also

⁶²Mandel, a former Communist under the pseudonym Bert Miller, had enrolled Chambers in the Communist Party in the 1920s. See Weinstein, Perjury 4 n.*, 88.

intended to subpoena Keith⁶³ once the FBI had finished interviewing him. See Exh. 4, Serial 3023 (Mar. 30, 1949).

110. On April 6, the grand jury told Donegan it wanted FBI Director Hoover and the Attorney General to testify. See Exh. 4, Serial 3131, 3132. Hoover was not interested in appearing, and Donegan "felt that he could control the GJ [grand jury] with reference to this matter without difficulty. . . . [he] appeared to be confident that he had control of the Grand Jury." Exh. 4, Serial 3131 (Apr. 7, 1949). FBI Agent Belmont, at least, thought that "as the Bureau is aware, the Grand Jury has been going a little bit afield and apparently has the idea that it should find out as much as possible about espionage in the United States and draw on all sources to get that information and possibly come up with a presentment." Exh. 4, Serial 3132 (Apr. 7, 1949).

111. Chambers and HUAC Research Director (and former Communist) Benjamin Mandel were scheduled to testify on April 6. See Exh. 4, Serial 2739 (Apr. 5, 1949).

112. On April 12, Professor Steven W. Mamchur testified

⁶³This may have been the "Keith" described in Chambers's book, an alleged Communist underground worker in California who later moved to New York and at one point helped set up the Baltimore photography workshop used by Chambers and his sources. See Chambers, Witness 268-69, 419-21, 424-25.

about Judith Coplon.⁶⁴ Dean Ivan Lamb⁶⁵ was the only other witness. See Exh. 4, Serial 2888 (Apr. 14, 1949).

113. On April 13, Lamb finished testifying and Robert Stripling testified. See id.

114. On April 14, Alexander Campbell was the only witness. See Exh. 4, Serial 2739 (Apr. 5, 1949). That same day, Donegan forwarded a draft grand jury presentment to the FBI. See Exh. 4, Serial 221 (Apr. 14, 1949).

115. Vladimir De Sveshnikoff was subpoenaed for April 19, 1949. See Exh. 4, Serial 2888 (Apr. 14, 1949).

116. On April 25, Donegan was considering subpoenaing Henry Rhine and Jessica Buck Rhine. See Exh. 4, Serial 3094 (Apr. 25, 1949).

117. Richard Nixon was scheduled to testify on April 26. See Exh. 4, Serial 2888 (Apr. 14, 1949). On April 26, the grand jury was considering calling Helen Ringe, an ex-girlfriend of Abraham George Silverman. See Exh. 4, Serial 2954 (Apr. 26, 1949).

118. Velde was scheduled to appear on April 27. See Exh. 4, Serial 2888 (Apr. 14, 1949).

⁶⁴Ms. Coplon, a Justice Department employee, was eventually convicted of conspiring with "her Soviet sweetheart," V.A. Gubitchev, to misappropriate classified papers, but the conviction was later reversed on procedural grounds. Latham, Communist Controversy 271, 361-62. Ms. Coplon was apparently spying on the FBI's internal security investigations, including those based on Chambers's leads. See Weinstein, Perjury 360-62.

⁶⁵Hiss had met Lamb in New York; Chambers claimed, but Hiss denied, that the purpose of the meeting was to persuade Lamb to join the Communist underground. See Weinstein, Perjury 429.

SOURCES OF INFORMATION ABOUT THE GRAND JURIES

119. Although the official record of the grand juries' proceedings is still closed, as described above, a variety of sources have revealed considerable information about the proceedings. Perhaps most importantly, verbatim passages from the minutes of the first grand jury proceeding were read into the record at Hiss's trials; witnesses at the trials also testified about their or others' grand jury appearances.⁶⁶

120. Some information about the grand jury proceedings was published in newspapers as a result of interviews with witnesses or through unofficial leaks. See Exhibit 5.

121. The principals in the Hiss-Chambers controversy have written about their testimony in their autobiographies. See Chambers, Witness 5-6, 723-28, 776-77; Alger Hiss, In the Court of Public Opinion 182-83, 193, 196-98 (1957).

122. A limited amount of information about the grand jury proceedings is now publicly available at the Special Collections Department of the Harvard Law School Library, where the Hiss

⁶⁶In addition, extensive portions of the transcript were turned over to Hiss's lawyers at the first trial: They were permitted to read all of Hiss's testimony from all the days from which the prosecutor read excerpts into the trial record, including March 16, December 7, December 10, December 13, December 14, and December 15, 1948. See Exh. 2, Transcript of First Trial 2227, 2232. When directed to turn these records over to Hiss's lawyer, the prosecutor tried to enter them all as exhibits, but the judge excluded them. See id. 2235-36. The defense lawyers were also allowed to examine passages of Chambers's testimony. See, e.g., id. at 454; Exh. 3, Transcript of Second Trial at 349. Hiss's lawyers at the second trial were also granted access to portions of Hiss's testimony. See, e.g., Exh. 3, Transcript of Second Trial at 2090.

defense files are located. For example, the defense files contain Alger and Priscilla Hiss's detailed dictated personal notes on their grand jury appearances, as well as documents released in response to FOIA requests by several historians. Documents released by the FBI in response to a FOIA request by Hiss and his lawyers include the names of most of the witnesses who testified regarding the Hiss-Chambers controversy. See Exhibit 4. Many grand jury exhibits, including the Baltimore papers and typewriting exemplars, were entered in evidence at trial and are now publicly available. See Transcript of Second Trial Vols. 6-9.

123. Finally, the records and reports of HUAC are another source of information related to the grand jury proceedings. HUAC held hearings while the grand jury was in session and called many of the same individuals who appeared before the grand jury as witnesses; they were interrogated regarding the same issues investigated by the grand jury. See Exh. 1.⁶⁷

124. The reports by the press, witnesses' statements, and the news of the HUAC investigation were disseminated at the time.

⁶⁷In addition to the press releases concurrent with the HUAC proceeding, HUAC published transcripts of witnesses' testimony in open session and issued two reports dated August 8, 1948 and December 31, 1948. However, because much of HUAC's investigation was conducted in closed executive sessions, the transcripts are scheduled to remain sealed until 2026, unless unsealed by Congressional action. An effort has been launched by the Organization of American Historians to open these historically significant materials. At the time of this writing, the Committee on the Judiciary, chaired by Representative Henry Hyde, has yet to act on the request.

Special Assistant to the Attorney General Thomas J. Donegan,⁶⁸ the senior Justice Department official presenting evidence to the grand jury, apparently sent daily summaries of transactions before the grand jury to his former boss, J. Edgar Hoover. As evidenced by the existence of multiple copies of some of these summaries, copies apparently were also disseminated to the New York, Baltimore, and Washington D.C. field offices of the FBI. See, e.g., Exh. 4, Serial 127 (Dec. 7, 1948); 128 (Dec. 8, 1948); 100 (Dec. 13, 1948); 977 (Jan. 3, 1949); 861 (Jan. 4, 1949); 849 (Jan. 5, 1949); 901 (Jan. 11, 1949); 1134 (Jan. 13, 1949); 1303 (Jan. 18, 1949); 1090 (Jan. 20, 1949). The forwarding of information was reciprocated. For example, on December 7, 1948, J. Edgar Hoover sent a memorandum to the FBI's communications section instructing them to forward copies of all reports relating to the Chambers investigation to Donegan. As a consequence of this information exchange, Donegan was kept

⁶⁸Thomas J. Donegan was a career FBI agent who for years ran the Major Case Squad. Donegan was particularly well qualified to oversee the Department of Justice's grand jury investigation into alleged subversion of government agencies. As one of Director Hoover's most trusted agents, he had been the agent in charge of some 200 FBI field investigators who, over the course of years, had pursued the various leads in the "Gregory" (i.e. Elizabeth Bentley) case. Attorney General Tom Clark recruited Donegan to serve as his Special Assistant with respect to the Hiss case as he was the individual most familiar with both the Bentley charges and other related cases that arose out of her allegations. To this end, Donegan personally conducted the interview of Miss Bentley before the grand jury. In later years, after the Hiss matter had been put to rest, Donegan represented Bentley in a private law suit. See Gary May, UnAmerican Activities: The Trials of William Remington (New York: Oxford University Press, 1994), 86-87; CIO News February 15, 1954, p. 5 in Box 1 "Bloom II," George Eddy Collection, Harvard University Law Library.

apprised of not only potential leads in the Hiss case, but also was privy to information secured by wire-taps and through other forms of "technical surveillance" on various witnesses who had direct and tangential connections to the Hiss-Chambers controversy. Verbatim transcripts of Robert E. Stripling's and Alexander Campbell's grand jury testimony were also transmitted to the FBI, the former having been provided by a "confidential source." See Exh. 4, Serial 641 (Dec. 12, 1948); 3145 (Apr. 7, 1949).

125. In 1975, Deputy Attorney General Harold Tyler announced in a press release that he had instructed all those in the Justice Department concerned with the Hiss and Rosenberg cases "to release as much information on those cases as possible, with as little delay as possible," because of the cases' "historical significance and the unusual problems which they present." Exh. 6, Press Release, Department of Justice (Aug. 17, 1975). Furthermore, Tyler opined that "those involved in the criminal conduct in the two cases, as well as the principal witnesses, have no general privacy interest in the subject matter sufficient to justify the withholding of any of these records." Id. More recently, on July 21, 1998, the FBI reaffirmed its 1976 position. See Exh. 8, Letter from J. Kevin O'Brien, Chief, Freedom of Information-Privacy Acts Section, Office of Public and Congressional Affairs, FBI, to Victor Rabinowitz, Rabinowitz, Boudin, Standard, Krinsky & Lieberman, P.C. (July 21, 1998) ("Tyler determined that the maximum possible disclosure should be

made [of the FBI's files on Alger Hiss] because of the historical significance of the case.").

QUESTIONS ABOUT THE PROPRIETY OF THE GRAND JURY PROCEEDINGS

126. Allegations of improprieties have been made with respect to both grand juries. The influence on the grand juries of the political climate and of Richard Nixon in particular has also been the subject of speculation. Nixon apparently testified before both grand juries, see Exh. 1, but all that is known is that he testified about the pumpkin papers before the first grand jury, on December 13, 1948. See Exh. 5, Alexander Feinberg, Compromise Fixes Spy Film Custody After Long Fight, N.Y. Times, Dec. 14, 1948, at 1. His testimony may have been pivotal in persuading the grand jury to indict Hiss. At his second trial, Hiss raised the issue of Nixon's testimony in a motion to unseal the grand jury minutes. See Exh. 3, Affidavit of Edward C. McLean, Esq., Notice of Motion to Inspect Grand Jury Minutes and Affidavit, Second Trial, included in Transcript of Second Trial 21, 30-31. Hiss argued, based on Nixon's well-publicized belief in Hiss's guilt and Chambers's honesty, that Nixon had pleaded with the grand jury to indict Hiss rather than Chambers and that Nixon's intervention was an improper interference with the grand jury by a member of another branch of government. See id. That motion was denied.

127. The second grand jury indicted William Remington for perjury on June 8, 1950, after proceedings riddled with alleged

improprieties. See Gary May, *Un-American Activities: The Trials of William Remington* 180 (1994). The grand jury records relating to Remington's indictment were unsealed ten years ago partly in response to the allegations of improprieties.⁶⁹ See Exh. 7, *In re Petition of May*, 13 Media L. Rep. (BNA) 2198 (S.D.N.Y. 1987). Although Remington's indictment was not part of the Hiss-Chambers controversy, the central issue was Communist espionage and the conflicts of interest that tainted the indictment extended back to the earlier investigation.

128. John Brunini, the foreman of the second grand jury, was helping Elizabeth Bentley write her memoirs. See Gary May, *Un-American Activities: The Trials of William Remington* 156 (1994). Thomas J. Donegan, the prosecutor presenting evidence to the grand jury, had previously acted as Bentley's attorney. See Exh. 7, Affidavit of Gary May at 12, *In re Petition of May*, 13 Media L. Rep. (BNA) 2198 (S.D.N.Y. 1987). In the spring of 1950, Brunini misstated the law of privilege to William Remington's ex-wife Ann in order to force her to testify, and Donegan did not correct him. See *id.* at 14-15 (quoting grand jury testimony). Despite repeated requests, Mrs. Remington was not allowed to eat until after she gave the testimony the prosecutors wanted. See Gary May, *Un-American Activities: The Trials of William Remington* 163-65 (1994). Judge Learned Hand thought that "'the examination [of Ann Moos Remington] went beyond what I deem permissible.'"

⁶⁹The decision to unseal the grand jury records and Gary May's affidavit supporting the petition are attached as Exhibit 7.

United States v. Remington, 208 F.2d 567, 571-72 & n.1 (2d Cir., 1953) (L. Hand, J. dissenting). The questioning of Remington himself may also have been improper. See Exh. 7, Affidavit of Gary May, In re Petition of May, 13 Media L. Rep. (BNA) 2198 (S.D.N.Y. 1987), at 16. Although I know of no specific allegations of witness mistreatment before Ann Moos Remington's testimony, the prosecutors and grand jurors who had questioned her also questioned the Hiss-Chambers witnesses.

129. Remington repeatedly challenged the validity of his indictment and subsequent conviction. See United States v. Remington, 191 F.2d 246, 250-51 (2d Cir. 1951) (noting Remington's allegations of witness intimidation, Brunini's financial interest in Bentley's book, and alleged abuse of power by Brunini), cert. denied 343 U.S. 907 (1952); United States v. Remington, 208 F.2d 567 (2d Cir. 1953) 571-73 (L. Hand, J., dissenting) (discussing at length the interrogation of Ann Moos Remington), cert. denied 347 U.S. 913 (1954). Justice Black, discussing the Brunini-Bentley collaboration and Remington's claim that the U.S. Attorney deliberately withheld information about the collaboration from Remington's counsel and then sought to suppress the evidence, opined that the "[g]overnmental conduct here charged is abhorrent to a fair administration of justice. It approaches the type of practices unanimously condemned by this Court as a violation of due process of law in Mooney v. Holohan, 294 U.S. 103." Remington v. U.S. 343 U.S. 907 (1952) (Black, J., dissenting from denial of certiorari).

130. Even before Remington's indictment, however, the second grand jury apparently embarked without the approval of some members of the Department of Justice on a wide-ranging investigation of Soviet espionage in the United States generally. See Exh. 4, Serial 3132 (Apr. 7, 1949). The grand jury even attempted to call J. Edgar Hoover as a witness, apparently unsuccessfully. See Exh. 4, Serial 3131 (Apr. 7, 1949). However, the grand jury did manage to call some witnesses on its own initiative. See Exh. 5, Presentment ¶ 2. It is unclear how much control the Department had over the grand jury. Compare Exh. 4, Serial 3131 (Apr. 7, 1949) (Donegan "appeared to be confident that he had control of the Grand Jury.") with Gary May, Un-American Activities: The Trials of William Remington 178 (1994) ("Your superiors expected you [Donegan] to control this Grand Jury and they'll not like it if you don't. But you cannot control this Grand Jury.") (quoting an alleged statement by Brunini during the Remington investigation).

131. Despite Brunini's claim that the presentment handed up by the grand jury on July 26, 1949, recommending that the U.S. espionage laws be tightened, had been the grand jury's own idea, see Exh. 5, Thomas F. Ronan, Grand Jury Urges Tighter Spy Laws, N.Y. Times, Apr. 27, 1949, at 1, 7, Donegan had sent a draft of the presentment to the FBI twelve days before it was handed up. See Exh. 4, Serial 221 (Apr. 14, 1949). Except for changes in capitalization and the transposition of two words, the draft was identical to the actual presentment. Compare id. with Exh. 5,

Presentment. The presentment endorsed the Attorney General's recommendations on espionage legislation; praised the FBI; and strongly recommended that all espionage investigations be conducted in secret, a recommendation which was seen as an implied criticism of HUAC. See Exh. 5, Presentment; Exh. 5, Thomas P. Ronan, Grand Jury Urges Tougher Spy Laws, N.Y. Times, Apr. 27, 1949, at 1, 7. It is unclear whose recommendations the presentment really embodies.

THE GRAND JURY RECORDS

132. The transcripts of the witnesses who testified before the grand juries that investigated the Hiss-Chambers controversy are located at the National Archives and Records Administration, Northeast Region, in New York, as part of Record Group 118, Records of United States Attorneys and Marshals, U.S. Attorney for the Southern District of New York, U.S. v. Alger Hiss, Case No. 11692. The transcripts of the grand jury proceedings are sealed to the public. Exhibit 8 provides the National Archives's box list for the U.S. Attorney materials relating to the Hiss case.

133. In 1977, Alger Hiss and free-lance journalist William Reuben filed a motion to unseal the minutes of the two grand juries related to the indictment of Alger Hiss. Hiss v. Department of Justice, 441 F. Supp. 69 (S.D.N.Y. 1977); see Exhibit 6 for the motion and supporting papers. The motion was filed after Hiss and Reuben had filed FOIA requests for records

relating to grand jury witnesses and been told that the records could not be released because of Rule 6(e) of the Federal Rules of Criminal Procedure. As the Deputy Attorney General of the United States explained in 1975:

Only if the appropriate court removes the barrier created by the operation of Rule 6(e) from all or any portion of these grand jury minutes, will the Department of Justice review the minutes under the Freedom of Information Act and my implementing guidance pertaining to the records of the Hiss case. At this time, I perceive no reason why the Department would oppose a motion to the court to release the portions of the minutes requested by you from the operation of Rule 6(e).

See Exh. 6, Letter from Harold R. Tyler, Jr., Deputy Attorney General, to Randlett Walster, Rabinowitz, Boudin & Standard (Nov. 6, 1975), Exh. A to Walster Affidavit (emphasis added). When the motion was filed, the Department of Justice and the United States Attorney for the Southern District of New York did not object to the unsealing of the records. The motion was denied, however, and the records remain sealed.

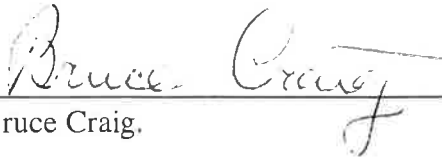
134. In June 1998, I contacted the National Archives for access to any records related to the Hiss grand jury proceedings. By letter dated June 25, 1998, the National Archives denied my request, stating that Rule 6(e) of the Federal Rules of Criminal Procedure forbids disclosure. The letter from the Archives is included in Exhibit 8.

135. The FBI has more than 46,000 pages of records concerning Alger Hiss; indeed, 46,123 pages are available on Alger Hiss in the FOIPA Reading Room. However, any references to what transpired before the grand jury are withheld from these

documents. Included in Exhibit 8 is a June 1998 letter from the FBI concerning the reprocessing of records concerning Alger Hiss.

Pursuant to 28 U.S.C. Section 1746, I declare under the penalty of perjury, that the foregoing information is true and correct.

Executed in Westlake Village, California, on this 9th day of December, 1998.


Bruce Craig.