Appendix A

SECRECY

A Brief Account of the American Experience

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

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1. Secrecy as Regulation

Secrecy is a form of government regulation. There are many such forms, but a general division can be made between regulations dealing with domestic affairs, and those dealing with foreign affairs. In the first category, it is generally the case that government prescribes what the citizen may do; in the second category, it is generally the case that government prescribes what the citizen may know.

Again, in the first category, it is generally the case that such regulations derive from statute. Congress makes a law, entrusting its enforcement to a bureaucracy which issues rules and rulings to carry out the law. This is a feature of the administrative state that appeared in the United States in the early 20th century, roughly between the administrations of Theodore Roosevelt and Woodrow Wilson. Thus, the Department of Commerce and Labor was established in 1903; the Federal Reserve Board in 1913; the Federal Trade Commission in 1914. An executive gazette—the *Official Bulletin*—was inaugurated in 1917. (The *Official Bulletin* was published for only two years. It was the precursor to the *Federal Register*, in which all new regulations are published, which began in 1936.)

Secrecy became a persuasive mode of regulation with the advent of the national security state at mid-century, although its origins also go back to the beginning of the century. The statutory base of secrecy is modest; two or three laws, of which the National Security Act of 1947 is emblematic. Withal, its spare reference to the protection of "sources and methods" led to a vast secrecy system almost wholly hidden from view. There would be no *Official Bulletin*.

Three general propositions will emerge from this "Brief Account." The first is that from the time of the First World War, the beginning of the great power conflicts that would continue for the better part of the century, the United States recurrently faced espionage attacks by foreign governments, and on occasion, sabotage of notable proportion. A recurrent pattern of these crises is the involvement of ethnic groups, often first-generation immigrants who have retained strong attachments to their ancestral homes and, not infrequently, to political movements that were prominent at the time of immigration.

The ethnic dimension of international conflict has repeatedly created a fear of internal conspiracy in aid of external threat. This was succinctly stated by Theodore Roosevelt in October 1917:

> The men who oppose the war; who fail to support the government in every measure which really tends to the efficient prosecution of the war; and above all who in any shape or way champion the cause and the actions of Germany, show themselves to be the Huns within our own gates and the allies of the men whom our sons and brothers are crossing the ocean to fight.[1]

Arguably, one consequence of the "Hun within" syndrome is that the United States developed a pattern of extensive defensive secrecy far greater than would have been required to deal with an essentially external threat. A kind of backward formation took place. Whereas, in the usual situation (if there is such) the existence of secrets required defensive measures, in the American experience of the 20th century, the secrets came about largely *because* there was a perceived threat. Loyalty would be the arbiter of security. Given that loyalty could not be assumed, a vast secretive security system emerged.

The second proposition is that the statutory basis for secrecy has been, and remains, so elusive that violations of secrecy occur with relative impunity. Edward A. Shils defined secrecy as "the compulsory withholding of knowledge, reinforced by the prospect of sanctions for disclosure."[2] This was written in 1956, when the morale of the Cold War system was high, and discipline was readily maintained. In 1946, as will be discussed, the Army Security Agency (formerly the Army Signal Security Agency) decoded the first of several thousand VENONA[3] messages sent by the KGB [Komitet Gosudarstvennoi Bezopasnosti (Committee for State Security)][4] and other Soviet intelligence agents identifying spies working within the American Government. The consequences for American counterespionage were spectacular; the VENONA project continued until 1980. Early on, the Soviets learned of its existence through a spy in the Army Security Agency itself, but as for the American public, not a whisper was heard until the 1980s, and only with the establishment of the Commission on Protecting and Reducing Government Secrecy has this extraordinary archive been made public.

In time, however, the system degraded, largely in consequences of having grown to grotesque proportions. A specific example would be the celebrated "Pentagon Papers," essentially an official history of the war in Vietnam. Most of which were "Top Secret." The *New York Times*, and later the *Washington Post*, obtained copies and proceeded to publish selections. The United States Government moved to enjoin publication. The Supreme Court overruled the Executive Branch. Soon after, Harold Edgar and Benno C. Schmidt, Jr. published an article on the case in the *Columbia Law Review*. Just what was the law here? they asked. They replied, after 158 pages, that they could not possibly tell.[5]

It has now become routine for information of the highest classification to appear in the press, most commonly as a tactical move in some intra-government policy dispute. There are no sanctions. A fairly routine example of what might be called "deregulation" occurred on October 22, 1996, when the *Washington Times* published details of a "Top Secret" CIA analysis of the control system of Russian nuclear weapons. The following day, the *Washington Post* had a "follow-up" story by Reuters:

CIA Rates 'Low' the Risk of Unauthorized Use of Russian Nuclear Warheads

> The Central Intelligence Agency has concluded that Russia's control over its nuclear arsenal has been weakening, but the chance of unauthorized launch or blackmail remains low, CIA officials said yesterday.
>
> "The Russian nuclear command and control system is being subjected to stress that it was not designed to withstand as a result of wrenching social change, economic hardship and malaise within the armed forces," according to a classified report prepared last month, the officials said.
>
> The CIA report, "Prospects for Unsanctioned Use of Russian Nuclear Weapons" and stamped top secret, was disclosed by the Washington Times in its editions yesterday. CIA officials confirmed the accuracy of the material quoted in the article.

Now came the essential part of the story: Who benefited when someone within the government chose to betray this "secret"? The Reuters dispatch continued:

> Disclosure of the CIA report bolstered critics of President Clinton . . . who favor building a costly missile defense system over administration objections that it could undermine the 1972 Anti-Ballistic Missile Treaty.
>
> "It reinforces the urgent need for a missile defense to be put in place as soon as possible for the United States as well as for its allies and friends," said James Lilley . . . who served as U.S. envoy to China and South Korea under presidents Ronald Reagan and George Bush.

This is a fixed pattern. Classified documents are routinely passed out to support an administration; weaken an administration; advance a policy; undermine a policy. A newspaper account would be incomplete without some such reference.

Shils's definition to the contrary, however, *there are now no sanctions for disclosure*. Not, that is, for anyone at the Deputy Assistant Secretary level or above. In the manner of maturing bureaucracies, most agencies involved with security matters have developed a range of publications concerning their activities. The Department of Defense Security Institute publishes *Recent Espionage Cases*. The May 1996 issue recorded all cases since 1975. It is melancholy reading. Of 89 such cases, 55 involved persons who on their own decided, typically, to try to sell secrets to the Soviets. Only fifteen were "recruited" successfully and there were only nine real-life foreign agents. Hardly a "Hun within" in the batch. But there is one notable case, that of a civilian analyst with the Office of Naval Intelligence who supplied Jane's Publications with classified photos showing a Soviet nuclear-powered carrier under construction. The photographs were subsequently published in *Jane's Defence Weekly* (July 1984). The employee was sentenced to two years' imprisonment. The Defense Security Institute comments that this was "the first individual convicted under the 1917 Espionage Code for unauthorized disclosure to the press."[6]

Along with the *de facto* immunity of senior officials who release classified information, there developed a form of Congressional oversight, beginning with the House Committee on Un-American Activities and the Senate Subcommittee on Internal Security, which could and did protect the intelligence community, as it came to be known, and let out a fair amount of information to the public. But in the process, the public also "learns" a good many things that are not so. As Evan Thomas, the author of a recent book on the early days of the CIA, notes in a recent issue of *Studies in Intelligence*, a publication of the Central Intelligence Agency: "Polls show that nearly 80 percent of Americans believe JFK died as a result of a conspiracy, and about half believe the CIA was somehow involved."[7] Secrecy begets suspicion, which can metastasize into belief in conspiracies of the most awful sort.

Despite the growing frequency of high-level disclosure of classified materials, the public perception is not wrong; the vast proportion of classified material remains classified. This reflects the principled character of the men and women of the Armed Services and the assorted intelligence and related agencies. It also reflects the sheer dimension of the secrecy system. It would be a fair guess that if every page of every newspaper published in the United States on a given weekday were given over solely to reprinting the classified documents *created* that day, there would not be enough space. This, in turn, reflects the criterion of classification, which is to say, *national security*.

Harold C. Relyea, of the Congressional Research Service, notes that, "A perusal of the Federal statutes indicates that *national security* suddenly began to appear with some frequency as the

undefined term in laws enacted around the time of U.S. involvement in World War I."[8] National defense was not enough; that had been the concern of admirals and generals: dockyards and arsenals and order of battle. This was something more. The world was a far more dangerous place; ideological conflict was as serious as military conflict: indeed, more so, and far more elusive in its details. For the better part of a century the United States would hardly know a moment's peace of mind. We would gradually see, in Donald L. Robinson's term, "The Routinization of Crisis Government."[9]

The decisive moment in this regard was the enactment in 1947 of the National Security Act, which established the unified Department of Defense, the Central Intelligence Agency, and the National Security Council, the latter a standing committee in the White House designed to deal with emergencies of all sorts. In testifying in support of such legislation before the Senate Committee on Military Affairs, James F. Forrestal, then Secretary of the Navy, was explicit in choosing the term "national security" over "national defense." Unifying the Army and Navy was not nearly enough. Forrestal set out a list of "eight requirements against which to measure any plan for national security":

> (1) Organized means for the integrating of foreign and military policy;
> (2) Organizations in being for directing industrial mobilization and for reconciling industrial mobilization with national resources.
>
> That means in particular that you don't create military demands beyond your capacity to fill them or that will do injury to other great and urgent demands. And that question of balance, in my view, is one of the most important considerations in war.
>
> ****
>
> (3) A more efficient organization for the translation of strategic requirements into requirements for materiel and personnel.
> (4) Provisions for the coordination of military and other war budgets.
> (5) Adequate means for the elimination of waste and duplication in and between the military departments.
> (6) An efficient coordinated intelligence organization serving all Government departments and agencies.
> (7) An organizational means for fostering scientific research and development within the military departments and among civilian organizations.
> (8) Full opportunity of each branch of the military services to develop for its specialized task.[10]

At this time, a report prepared for Forrestal declared that "our international policy in the years ahead looks for national security through a United Nations organization for the maintenance of world peace."[11] This would hardly do today, and yet, in the first war following the Second World War, in Korea beginning in 1950, the United States fought under a United Nations flag. If the United Nations receded as a vehicle for collective security—another term of that time—the North Atlantic Treaty Organization was by now also in place. International venues would vary; what continued ever after was Forrestal's dictum that national security must "bring in every element of our Government."[12]

A succession of post-World War II presidents issued executive orders published in the *Federal Register* asserting this particular form of regulation, but without defining it. Truman in 1951:

> *Classified security information*. The term "classified security information" as used herein means official information the safeguarding of which is necessary in the interest of national security, and which is classified for such purpose by appropriate classifying authority.[13]

Eisenhower in 1953:

> Section 1. *Classification Categories*. Official information which requires protection in the interests of national defense shall be limited to three categories of classification, which in descending order of importance shall carry one of the following designations: Top Secret, Secret, or Confidential. No other designation shall be used to classify defense information. . . .[14]

A 1972 Executive Order by President Nixon was more ambitious:

> Section 1. *Security Classification Categories*. Official information or material which requires protection against unauthorized disclosure in the interest of the national defense or foreign relations of the United States (hereinafter collectively termed "national security") shall be classified in one of three categories, namely "Top Secret," "Secret," or "Confidential," depending upon the degree of its significance to national security. No other categories shall be used to identify official information or material as requiring protection in the interest of national security, except as otherwise expressly provided by statute.[15]

The most recent Executive Order, that of President Clinton in 1995, is exemplary in the succinctness of its core definition:

> *Definitions*. For purposes of this order:
> (A) "National security" means the national defense or foreign relations of the United States.[16]

But succinctness is not the same as clarity. Under these executive orders, "national security" is in the eyes of the "appropriate classifying authority." Of which there are at present roughly 5,300 persons within the Federal Government with the authority to classify "originally," but an estimated *two million* additional persons in the Government who then can classify "derivatively" by citing already-classified documents or by using "classification guides" prepared by their agencies, and another one million in private industry with such ability.[17]

A third and final proposition is that secrecy, unless carefully attended to, is a source of considerable sorrow in government. That there can be a need for it, none should dispute. The Framers so provided in Article 1, Section 5 of the Constitution:

> Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy. . . .

But, as Joseph Story wrote in *Commentaries on the Constitution of the United States*, the object of the clause requiring the keeping of a Journal is "to insure publicity to the proceedings of the legislature, and a correspondent responsibility of the members to their respective constituents."[18]

And so, at the very outset we encounter the unavoidable tension between the right of the public to know and the need for government, in certain circumstances, to withhold knowledge.[19] Relyea has observed: "Ideally, all information held by government belongs to the citizenry."[20] And yet, it can be very much in the interests of the same citizenry that some information *not* be generally available, and within the capacity of a mature democracy to make the distinction. Provided only that the system be kept under review.

However, secrecy can confer a form of power without responsibility, about which democratic societies must be vigilant. A disturbing instance occurred after the discovery, beginning with the Army Security Agency's code-breaking in 1946, of a most considerable Soviet espionage *apparat* in the United States, including, by all the evidence, senior officials of the United States Government. The person who most needed to know this was the President of the United States. The issue was national security and he was Commander-in-Chief.

It would appear, however, that President Truman was not told. In their superb account of these events, *VENONA: Soviet Espionage and the American Response, 1939-1957*, published by the National Security Agency and the Central Intelligence Agency (in connection with a major October 1996 conference on VENONA), Robert Louis Benson and Michael Warner write:

> Truman's repeated denunciations of the charges against Hiss, White, and others—all of whom appear under covernames in decrypted messages translated before he left office in January 1953—suggest that Truman either was never briefed on the Venona program or did not grasp its significance. Although it seems odd that Truman might not have been told, no definitive evidence has emerged to show he was. In any event, Truman always insisted that Republicans had trumped up the loyalty issue and that wartime espionage had been insignificant and well contained by American authorities.[21]

Benson and Warner continue:

> The long spate of prosecutions and loyalty hearings coincided with, and helped heighten, the atmosphere of suspicion and accusations now known as McCarthyism. Republicans in Congress were echoing widespread sentiment when they criticized the Truman administration for its failure to prevent Communism from conquering Eastern Europe and China. "Softness" on Communism abroad was portrayed by Republicans as the corollary of laxness at home. Suspicions that the Roosevelt and Truman administrations had neglected internal security fed charges of a Democratic-led coverup of the wartime *Amerasia* affair, as well as Eisenhower administration Attorney General Herbert Brownell's 1953 accusation that then President Truman had ignored FBI warnings about Harry Dexter White in 1946. Republican Senator Joseph McCarthy and allies exploited this confusion and rancor, blaming Communists in the State Department for "losing" China and accusing Federal workers of disloyalty on flimsy pretexts.

> The tacit decision to keep the translated messages secret carried a political and social price for the country. Debates over the extent of Soviet espionage in the United States were polarized in the dearth of reliable information then in the public domain. Anti-Communists suspected that some spies—perhaps including a few who were known to the US Government—remained at large. Those who criticized the government's loyalty campaign as an over-reaction, on the other hand, wondered if some defendants were being scapegoated; they seemed to sense that the public was not being told the whole truth about the investigations of such suspects as Julius Rosenberg and Judith Coplon. Given the dangerous international situation and what was known by the government at that time, however, continued secrecy was not illogical. With the Korean war raging and the prospect of war with the Soviet Union a real possibility, military and intelligence leaders almost certainly believed that any cryptologic edge that America gained over the Soviets was too valuable to concede—even if it was already known to Moscow.[22]

The decision to share or to withhold information could be—*can* be—highly personal and political, or purely professional. The Central Intelligence Agency was not informed about VENONA until 1952. The KGB cables indicated that the Office of Strategic Services (OSS) in World War II had been thoroughly infiltrated with Soviet agents. As the CIA was widely regarded as the successor to the OSS, the Army and the FBI were appropriately cautious in sharing their secrets. That is a problem not to be avoided. But when secret information is withheld for personal or political reasons, the democracy can be put at risk.

2. The Experience of the First World War

Much of the structure of secrecy now in place in the United States Government took shape in just under eleven weeks in the spring of 1917. As provided by the Constitution, President Woodrow Wilson on April 2 asked Congress for a Declaration of War against Imperial Germany. That same day, an espionage act was introduced in the House of Representatives; the next day in the Senate. On April 4, the Senate adopted a Declaration of War. On April 5, the United States Civil Service Commission provided the President with a choice of executive orders providing for "excluding from the Government service of any person of whose loyalty to the Government there is reasonable doubt."

On April 6, the House declared war. On April 7, the President signed a "Confidential" executive order concerning the loyalty of government employees. The debate on "the Act to punish Acts of Interference with the Foreign Relations, the Neutrality of the Foreign Commerce of the United States, to punish Espionage, and better to enforce the Criminal Laws of the United States, and for other purposes," known as the Espionage Act of 1917, continued through the spring, and the legislation was signed into law on June 15.[23]

The Espionage Act had an antecedent in the Alien and Sedition Acts of 1798, three Acts dealing with aliens and one with sedition. The bills were passed by a Federalist Congress, as historian Jerald A. Combs writes, "to silence opposition to an expected war with France." Neither country

had declared war, but French and American ships had fought many battles. One measure required an alien to live in the United States for fourteen years before becoming a citizen; immigrants at the time were mostly French and Irish who supported the Democratic-Republicans, who in turn tended to support France. Thomas Jefferson and James Madison challenged the constitutionality of the Acts, which were a prominent issue in the 1800 election, won by Jefferson. The Acts thereupon expired, were repealed, or were amended out of existence.[24] It was our first such experience as a nation, and one which was eerily reenacted 119 years later.

It would be too much to state that the Democratic administration of Woodrow Wilson expected war with Germany from the outset of hostilities in Europe in 1914. But its sympathies lay with Great Britain, as would those of the administration of Franklin D. Roosevelt, a spare two decades later. Moreover, Imperial Germany, in the face of proclaimed American neutrality, set about a campaign of espionage aimed at curtailing the American supply of weapons for the Allied forces, and in so doing involved itself with ethnic elements: German and Irish, opposed to support for the Allies; and a new group, Indians, in the main Punjabis, opposed to British rule in India.

The pattern here is the perception of both *external* and *internal* threat, the latter deriving from ideological or ethnic elements, these latter often overlapping. The first statute enacted by the 1st Congress prescribed the Oath of Allegiance taken by officers of the American Government. It was an oath to support the Constitution of the United States. In 1861, four months into the War of Secession, the oath was amended to read "support, protect, and defend the Constitution and Government of the United States against all enemies whether *domestic or foreign*"[25] (emphasis added). Note that domestic comes first. The linkage never thereafter dissolved.[26]

With the 20th century, a new intensity attended the anxieties of state. Normally moderate, reasonable men and women would grow hysterical confronting unnamed, unseen, frequently nonexistent dangers. In Europe, the Great War itself was in great measure the result of such insecurities. It was a civil war, as we can now see it, that all but destroyed the premier civilization of the age, both by itself and, even more, by its vertiginous aftermath. War brought revolution, which brought more war, then more revolution. No state was any longer secure; this in the aftermath of the long and virtually undisturbed stability of the century preceding.

The United States could not escape this; did not. Thus, it came about that on November 20, 1915, Wilson's Secretary of State Robert Lansing, the most moderate of men, experienced prior to the outbreak of war with all manner of arbitral tribunals which had promised an era in which disputes between nations would be settled by law, rather than arms, would write the President urging that he include in the forthcoming State of the Union address:

> [S]ome suggestion as to legislation covering foreign intrigues in our internal affairs such as conspiracies to blow up factories, to encourage strikes, to interfere with industrial operations, to gather information of this government's secrets, etc., etc.[27]

The previous May 10, Wilson, the embodiment of the academic in politics, thoughtful, careful, reasoned above all, had told a Philadelphia audience, "There is such a thing as a man being too proud to fight."[28] Now on December 7, 1915, in his Annual Message on the State of the Union to Congress, he said of the War in Europe, "We have stood apart, studiously neutral." But then *this*:

> There are citizens of the United States, I blush to admit, born under other flags but welcomed under our generous naturalization laws to the full freedom and

> opportunity of America, who have poured the poison of disloyalty into the very arteries of our national life; who have sought to bring the authority and good name of our Government into contempt, to destroy our industries wherever they thought it effective for their vindictive purposes to strike at them, and to debase our politics to the uses of foreign intrigue. . . . A little while ago such a thing would have seemed incredible. Because it was incredible we made no preparation for it. We would have been almost ashamed to prepare for it, as if we were suspicious of ourselves, our own comrades and neighbors! But the ugly and incredible thing has actually come about and we are without adequate federal laws to deal with it. I urge you to enact such laws at the earliest possible moment and feel that in doing so I am urging you to do nothing less than save the honor and self-respect of the nation. Such creatures of passion, disloyalty, and anarchy must be crushed out.[29]

No President had ever spoken like that; none since. In a half-century of Cold War with the Soviet Union, when there were indeed persons of foreign birth, living in the United States, actively involved in seditious activities on behalf of the Soviet Union, no President ever spoke like that. Others in public life did; *many* others in private life did, including many who knew what they were talking about. But the telling fact is that the intensity of fear and, yes, loathing of those years was never later equaled.

Assistant Attorney General Charles Warren was assigned the task of drafting such laws. On June 3, 1916, *seventeen* separate bills were sent to Congress.[30] The following February 3, 1917, Germany resumed unrestricted submarine warfare, and the United States broke diplomatic relations. On February 20, the Senate combined thirteen of the seventeen bills and passed that measure, but the House did not act. At a cabinet meeting of March 20, Attorney General Gregory asserted that "German intrigues" were afoot but complained of the "helplessness of his Department under existing laws."[31] In his address asking for a Declaration of War, Wilson cited spying as an example of the hostile intent of the "Prussian autocracy":

> [F]rom the very outset of the present war it has filled our unsuspecting communities and even our offices of government with spies and set criminal intrigues everywhere afoot against our national unity of counsels, our peace within and without, our industries and our commerce. Indeed it is now evident that its spies were here even before the war began.[32]

In short order, Congress passed legislation based on the original seventeen bills the administration had proposed, and on June 15, the Espionage Act was signed into law.

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There was then, as now, a large American population of German ancestry. German culture was widely admired, the German language taught in public schools, German political traditions viewed as essentially democratic. Early in the War, the Berlin government set out to use these attachments to influence public opinion to oppose American entry into the War. As the War began in August, 1914, the German ambassador arrived in the United States with $150,000,000 in German Treasury notes[33] ($2.2 billion in current dollars) to pursue a propaganda campaign, purchase munitions for Germany, and conduct an espionage campaign aimed at denying war material to the Allies. This latter was the province of the Military Attache, Captain Franz von Papen.

In a fateful manner, whilst the British made friends, the Germans made enemies. Early in the morning of July 30, 1916, German agents, probably assisted by Irish nationalists, blew up a munitions dump at the Black Tom railroad yard and the adjoining warehouses in New York harbor. (The site is now Liberty State Park, where tourist boats depart to visit the Statue of Liberty.) It was a stunning event, in both magnitude and consequence.[34] Sabotage became a national issue.

Captain von Papen also provided support for the Ghadar movement (Urdu for "mutiny"), composed principally of Punjabi Indians seeking independence from British rule. It was based principally in California, to which Punjabi agricultural workers had migrated from Canada. Once war was declared on Germany, the United States Government indicted some 105 persons of various nationalities for participating in the conspiracy. From the start it was viewed as the "Hindoo conspiracy." When the first arrests were made, the *San Francisco Chronicle* noted U.S. Attorney John W. Preston's characterization of those indicted as involved in "the Hindoo conspiracy [which] was an offshoot of the German neutrality plots." The article goes on to say that:

> According to the complaint on which the Hindoos were taken into custody they conspired to "Cripple, hinder and obstruct, the military operations of Great Britain" by sending Hindoos to India to stir up a revolt, and to help Germany by forcing Great Britain to withdraw troops from Europe for service in India to quell the revolt.[35]

At the trial, the conspiracy was described as one which "permeated and encircled the whole globe."[36] Twenty-nine defendants were found guilty: fifteen Indians, fourteen German-Americans or Germans. The latter included Franz von Bopp, German Consul in San Francisco. The "Hindoo conspiracy" entered the national imagery.[37]

For all the energy and expenditure, it is not clear what Berlin had to show for its elaborate and extensive espionage activity. At this time, the United States possessed one genuine "national defense" secret—which was that the American military was in no sense prepared for a major war with major adversaries. The Army was so under-equipped that when it got to France it had to borrow French artillery. But this was an open secret, and in that sense, the Espionage Act can be said to have accomplished little or nothing. German espionage, real or imagined, did, however, do great damage to German-Americans, and thereby to the American people at large.

As war approached, Woodrow Wilson had delivered himself of this mordant forecast:

> "Once lead this people into war," he said, "and they'll forget there ever was such a thing as tolerance. To fight you must be brutal and ruthless, and the spirit of ruthless brutality will enter into the very fibre of our national life, infecting Congress, the courts, the policeman on the beat, the man in the street." Conformity would be the only virtue, said the President, and every man who refused to conform would have to pay the penalty.[38]

He seems not to have noticed his own excess, a failing not unknown in university presidents. He had alerted Congress to the intrigues of the foreign-born pouring poison into "the very arteries of our national life." Whether he realized it or not, Wilson was forever showering civil liberties on Germans in Germany whilst taking them away from American citizens of German descent. In his message to the Congress asking for a Declaration of War, he was emphatic: "We have no quarrel with the German people. We have no feeling toward them but one of sympathy and friendship."

"All the News That's Fit to Print."

The New York Times.

THE WEATHER
Partly cloudy and warmer Monday; partly cloudy, with probable showers Tuesday; moderate southwest winds.
REPORT & Full Weather Report on Page 12.

VOL. LXV...NO. 21,873. NEW YORK, MONDAY, JULY 31, 1916.—EIGHTEEN PAGES. ONE CENT In Greater New York, Jersey City and Newark. | Elsewhere, TWO CENTS.

ALLIES ADVANCE ON 6-MILE FRONT NORTH OF SOMME

British and French Attack at Same Time from Delville Wood to River.

FRENCH REACH MAUREPAS

Capture 200 Prisoners—British Push Their Line East and Take 250 Germans.

DAY OF GREAT BATTLES

Heavy Counterattacks Fail to Win Back Ground—German Losses Reported Very Heavy.

LONDON, Monday, July 31.—Further advances by the British and French north of the Somme are reported in the latest dispatches from General Haig and Paris.

A heavy engagement was fought yesterday on the sector between Delville Wood and the Somme, a distance of about six miles, with the result that the British moved their line forward east of Waterlot Farm and Bois Foret, and took 250 prisoners.

At the same time the French achieved success on the Somme also (second operation), giving further proof of the perfection of the new method by making a crack group of the German positions along a front of a half-mile from Maurepas to the river. The French troops in Priaulx had been making until the Britons moved on the operation assigned to them. Their having been satisfactorily completed, the central solution got word to move forward against the German trenches on the eastern slopes of the ravine, through which a light railroad runs from Combles to Clery and Feuillaucourt.

Every detail of the advance had been worked out with mathematical precision beforehand, and the operation was completed well within the time fixed on. The attacking troops met with only little the usual amount of resistance from the Germans, who lay because the more and had made every preparation to their power to frustrate it. The positions had been strengthened as well as the forward rule of projectiles from the French artillery permitted, and large forces of reserves were gathered in the rear.

The German reserves were hurled forward as soon as the French dust disappeared, and the fighting was fast and furious, especially at the western end of the line, where the nature of the ground permitted the counterattacking troops to advance with some prospect of getting through the French curtain of fire.

The French staff feels, however, that not well done, and, although the Germans attacked heavily and stubbornly all afternoon and well into the night, they failed to regain an inch of ground. There after wave of German infantry

2,678,000 Prisoners Taken by Central Powers

BERLIN, July 30. (by Wireless to Sayville.)—The German Government has issued officially the figures relating to the conquests at the end of the second year of the war in a statement which reads:

The Central Powers occupied 491,—[illegible] square kilometers, 150,000 square miles,) against 180,000 (57,000 square miles) a year ago. The enemy occupied in Europe 20,000 square kilometers, (8,200 square miles,) against 31,000 (11,100 square miles) a year ago.

The Central Powers, Bulgaria, and Turkey captured 2,678,000 enemy soldiers, against 1,041,000. Of these taken prisoner by the Germans 5,947 officers and 348,000 men were French, 3,170 officers and 1,200,000 men were Russian, and 847 officers and 30,000 men were British.

The war booty brought to Germany, in addition to that utilized immediately at the front, comprised 11,000 cannon, 4,500,000 shells, 8,400 machine guns, and 1,320,000 rifles.

According to the list of 348,000 of German wounded soldiers, 263 per cent. returned to the front, 14 per cent. died; the rest were unfit for service or were released. The sanitary measures of the Central Powers, in consequence of vaccination, were never disturbed by epidemics.

AMERICA DEMANDS RIGHTS IN TRADE

Protests "in the Most Decided Terms" in Note to Great Britain.

DENOUNCES THE BLACKLIST

Says It Brushes Aside Safeguards and Condemns Without Hearing and Without Notice.

Special to The New York Times.

WASHINGTON, July 30.—The note of protest sent by the United States Government to London on Wednesday with reference to the British trade blacklist of American firms indeterminate with emphatic protestations against Great Britain, and concerning lack of good faith on the part of that Government. No specific course of action by Great Britain in the war of neutrality by the effect of the blacklist is suggested, but this Government "hopes and believes" that the British Government has acted "without a full realization of the many unfavorable and unfavorable results that might ensue."

It is added, that the American note, that the blacklist measures "are inherently and essentially incompatible with the rights of the citizens of all nations not involved in the war." The protest is not based on legal grounds, but on principles of international morals, the American note making the position clear in the statement that the blacklist practice is "inconsistent with the spirit, if not the letter, of the imperial decrees which should characterize the dealing of friendly Govern-

STRIKE TIES UP 3D AV. SYSTEM AND MAY EXTEND

General Manager Hedley Gets Police Protection for N. Y. City Railways' Cars.

ORGANIZING SUBWAY MEN

From Battery to Westchester, Including Crosstown and Belt Lines, No Red Cars Move.

SERVICE IS PROMISED TODAY

System Carries 200,000 Passengers Daily—Union Officials Busy in All Five Boroughs.

The Third Avenue Railway Company was compelled to stop running cars on all of its surface lines in Manhattan late yesterday afternoon because of the strike of motormen and conductors. This resulted in a withdrawal from public use of a transportation service carrying more than 200,000 passengers daily. Fear of violence by strikers and sympathizers came forward the company to take this action. Edward A. Maher, Jr., assistant general manager of the company, announced, however, that service would be resumed this morning.

A SUDDEN strike by the motormen and employes of the Brooklyn and North Shore Railroad Company was declared at 4 P. M. This company, which was formed by the Brooklyn Rapid Transit Company, the Interborough Company, the New York Railways Company, and the Third Avenue Railway Company, operates cars from Flatbush Avenue and Fulton Street, Brooklyn, over Montague Bridge to the Bedfordshire Street Point in Manhattan. It has thirty-eight cars, and employs about 100 motormen and conductors.

The storage battery bill line of the Third Avenue Company temporarily quit running cars late yesterday afternoon with the rest. With the exception of work cars no were operating in the Bronx by attachmaking cars. The company's and up the cross Third Avenue system from the Battery to the old Dodge in Westchester County.

Two of the subsidiary companies of the Third Avenue Company, the Yonkers Railroad Company and the Westchester Electric Railroad Company, employing a total of about 600 motormen and conductors have been at a standstill for more than a week, and great inconvenience arose moved by those have been reduced.

The Union Railway Company, another subsidiary of the Third Avenue, was able to run some of its cars in the Bronx yesterday, but service was withdrawn last night.

The complete suspension of the Third Avenue system in Manhattan caused great inconvenience. Thousands of people detaching at Fort Lee Ferry from

MUNITION EXPLOSIONS CAUSE LOSS OF $20,000,000; 2 KNOWN TO BE DEAD, MANY MISSING, 35 HURT; THE HARBOR RAKED BY SHRAPNEL FOR HOURS

View of the Wreck of the National Storage Company's Plant on Black Tom Island
In the right hand foreground, barges and coast boats are moored.

Detailed Estimates of the $20,000,000 Loss by the Fire and Explosion in Jersey City

National Storage Company, plant and contents	$12,000,000
Lehigh Valley Railroad, 85 cars, grain elevator, tags, tracks	1,800,000
Central Railroad of New Jersey, 12 cars, damage to tracks	58,000
Ammunition in cars and barges	5,000,000
Moran Towing Company, three barges	60,000
Other barges with cargoes	200,000
Plate glass in Manhattan and Brooklyn	300,000
Plate glass in Hoboken	25,000
Plate glass in Jersey City	50,000
Ordinary window glass, and other damage, Manhattan, Brooklyn, and Jersey City	400,000
Buildings on Bedloe's, Ellis, and Governors Islands	250,000
Total	$19,645,000

Glass Damage Exceeds a Million; Few Downtown Buildings Escape

Insurance Companies Prepare to Pay Heavy Losses, While Small Property Owners Who Are Unnerved Suffer Heavily —Strange Freaks of Blast Are Seen.

Damage from the New Jersey explosion yesterday varying to window glass and buildings in Manhattan will amount to many thousands of dollars. [illegible] ing nerves all to glass from roof to cellar.

Discussing the result of the explosion yesterday, Mr. White said that he had two surveyors measuring glass in the exhibition, and will have a full [illegible]

Ellis Island Like War-Swept Town; Damage Estimated at $75,000

Only Six of 607 Persons at Bureau Receive Injuries—Immigrants Taken to Battery Till Danger Is Past—Hospital Roof Caves In.

Visitors landing at the immigration station the different buildings was Tuesday on Ellis Island yesterday afternoon might easily have imagined they were on the track of the great war and [illegible]

FIRST EXPLOSION TERRIFIC

Earth Torn Away and Great Hole Filled with Blazing Debris.

TWO MEN UNDER ARREST

Barge of High Explosive Alleged to Have Been Moored Against Orders.

87 CARS OF SHELLS FIRED

Heavy Damage in Manhattan and Brooklyn—Status of Liberty Hit.

The terrifying explosions in and near the National Storage Company's plant on Black Tom Island, Jersey City, yesterday morning, that caused millions of persons and were felt nearly 100 miles away, caused in property loss estimated at $20,000,000 and in the known death of two persons. The property loss includes more than $1,000,000 worth of plate glass and ordinary glass windows, and other damage, in Manhattan, Brooklyn, Jersey City, and Hoboken. The heaviest of the explosions was felt in five States—New York, Pennsylvania, New Jersey, Connecticut, and Maryland.

The primary cause of the disaster was a small blaze discovered on the deck of a barge loaded with high explosives, and, according to officials of the Lehigh Valley Railroad and of the National Storage Company, moored at a pier of the storage company contrary to new and direct orders. The blaze had been going twenty minutes before the Crichton were called, and when they arrived the fire was beyond their control. When the fire ran through the deck the first and biggest explosion occurred at 2:08 A. M.

The number of dead is still a matter of conjecture, and there is doubt in better than the list will reach ten or twelve and maybe more.

The list of missing, the Jersey City police believe, is far from complete, as is also the list of injured, of whom the police records show thirty-five. Hundreds of other persons, it is thought, were injured in their homes, but failed to report to the authorities.

Throughout the War, he pressed a policy of "war on the German government, peace with the German people." Save such as might have migrated to Milwaukee!

Never before, never since, has the American government been so aroused by the fear of subversion, the compromise of secrets, the danger within. In *The Growth of the American Republic* (1969 edition), Samuel Eliot Morison, Henry Steele Commager, and William E. Leuchtenburg write:

> In 1917-19 the people of the United States abandoned themselves to a hysteria of fear of German conspiracies and of Communist subversion, and the government indulged in greater excesses than at any previous crisis of our history.[39]

Note the linkage of ethnic identity and political radicalism. This was present in Wilson's 1915 message to Congress: "creatures of passion, disloyalty, and anarchy" who "must be crushed out." Now it all broke out. The historians continue:

> The war offered a great opportunity to bring patriotism to the aid of personal grudges and neighborhood feuds. The independent-minded sort of citizen who was known to his conforming neighbors as a 'Tory' in the Revolution, a 'Jacobin' in 1798, and a 'Copperhead' in the Civil War became a 'pro-German traitor' in 1917 and a 'Bolshevik' in 1918, and was lucky if he did not have garbled scraps of his conversation sent in to the Department of Justice or flashes from his shaving mirror reported as signals to German submarines. German-Americans, the vast majority of them loyal to the United States, were subjected to all sorts of indignities. Schools dropped German from their curricula, and even some universities abolished their German departments; German books were withdrawn from public library circulation and German publications driven under cover. The Governor of Iowa decreed that 'conversation in public places, on trains, or over the telephone' should be in the English language. Frederick Stock, distinguished conductor of the Chicago Symphony Orchestra, was deprived of his baton; the patriotic mayor of Jersey City refused to allow Fritz Kreisler to appear on the concert stage; and some universities revoked degrees they had conferred on distinguished Germans, thus giving academic sanction to the doctrine of retroactive guilt.[40]

Fortunately, Dwight D. Eisenhower had graduated from West Point in 1915.

As Congress attempted to restrain the Executive, although faintly, it might better be said to have lagged. *The Encyclopedia of the United States Congress* records:

> The censorship portion [of the Espionage Act] set off a storm of Congressional controversy. House Speaker James Beauchamp (Champ) Clark declared that censorship of the press was "in flat contradiction of the Constitution" and progressive Hiram W. Johnson and conservative Henry Cabot Lodge condemned it. Congress dropped the provision, but the rest of the bill sped through. . . .
>
> Postmaster General Albert S. Burleson and Attorney General Thomas W. Gregory vied with one another in clamping down on what they considered to be treasonable utterances. And within a year the president asked Congress for

> amendments to strengthen the Espionage Act by extending its reach to "profane, scurrilous, or abusive language about the form of government . . . the Constitution . . . or the flag of the United States, or the uniform of the Army and Navy." The result—the Sedition Act—became law on 16 May 1918.
>
> Under these statutes some pro-German newspapers and speakers and, far more often, socialist and other radical antiwar voices were suppressed and punished. In its 1919 *Schenck v. United States* and *Abrams v. United States* decisions, the Supreme Court upheld the constitutionality of this legislation. Congress allowed the law to expire in 1921.[41]

Again, the authors of *The Growth of the American Republic*:

> Under these harsh laws the government instituted widespread censorship of the press; banned two Socialist newspapers from the mails; held up circulation of a tax-journal, *The Public*, because it advised that more of the costs of the war should be borne by taxation; and banned Thorstein Veblen's *Imperial Germany and the Industrial Revolution*. . . . A hapless film-producer was sentenced to ten years in jail for producing a film on the American Revolution called *The Spirit of Seventy-six*, because it was thought that it might excite anti-British sentiments; a Vermont minister was sentenced to fifteen years' imprisonment for citing Jesus as an authority on pacifism. . . .[42]

At the now considerable distance, it is difficult to appreciate the force of pacifism as a political movement of the late 19th and early 20th centuries. It was international, based on creed, and given to association with socialism and other such commitments. There was nothing notably exotic in its doctrine, certainly not in the age of The Hague Peace Conferences convened in Holland in 1899 and 1907 by the Czar of Russia, nor of the Hague Peace Palace built there between 1907 and 1913.

William Jennings Bryan, Wilson's first Secretary of State, was a pacifist—in the words of his biographer a "pacifist committed, with remarkably few reservations, to nonviolence in dealings between the nations." To this end, he had set about negotiating some nineteen "cooling-off" treaties providing for international commissions to conciliate disputes when ordinary diplomatic methods failed. (In the Hoover administration, Secretary of State Frank B. Kellogg would negotiate another nineteen).[43] Bryan resigned, gracefully, over the tone of Wilson's response to the German sinking of the *Lusitania* and other ships. Arthur Link observes "it was not so much what the President's note said as what it did not say," that Bryan could not accept. It did not say that the United States would do everything possible "to avert even the possibility of war."[44] Josephus Daniels, Wilson's Secretary of the Navy, was a Bryan supporter, and was certainly dubbed a "pacifist," as his obituary noted.[45] A teetotaler, too. Doubtless also a foe of The Trusts. When, in March 1916, Wilson appointed Newton Diehl Baker Secretary of War, the *New York Times* headline read, "Baker to Be New Secretary of War; He is known as an Ardent Pacifist."[46]

Nonviolence had been advocated by Quakers in America since the 17th century. Of a sudden, such views became subversive, and "foreign," and a penal offense. The United States Government grew reckless in its infringement of liberty. Consider the matter of Eugene V. Debs, who had run for President as the candidate of the Socialist Party of America in 1912. He had received 900,369 votes, 6.0 percent of all votes cast. (Wilson received only 41.9 percent.) On

June 16, 1918, Debs delivered a speech in Canton, Ohio, which had an anti-war theme and expressed solidarity with three men—Wagenknecht, Baker, and Ruthenberg—who were convicted of failing to register for the draft. He also condemned the conviction of Kate Richards O'Hare for obstructing the draft. Such speech was now forbidden under the Espionage Act. Debs was tried, convicted, and sentenced to ten years' imprisonment on each of three counts, to be served concurrently.

The Supreme Court did not consider the constitutionality of the Espionage Act of 1917 and the Sedition Act of 1918 until after World War I was over. The enduring legal precedent established by the Court in its consideration of these Acts comes from *Schenck v. United States*. In writing that opinion on behalf of the Court, Justice Oliver Wendell Holmes articulated the "clear and present danger" test. The ruling affirmed that Congress has a right to limit speech in an attempt to limit certain "evils." Holmes explained:

> The most stringent protection of free speech would not protect a man in falsely shouting fire in a theatre and causing a panic. It does not even protect a man from an injunction against uttering words that may have all the effect of force. . . . The question in every case is whether the words used are used in such a circumstance and are of such a nature as to create a clear and present danger that they will bring about the substantive evils that Congress has a right to prevent.[47]

Subsequent to *Schenck*, Justice Holmes also wrote the opinion, for a unanimous court, upholding the conviction of Eugene V. Debs on March 10, 1919.[48]

As never before, as never since, the American Presidency, with the cooperation of Congress and the courts, was obstructing democracy in the name of defending it.

Not altogether. In 1920, Debs once again ran for President as the candidate of the Socialist Party of America, this time from the Atlanta Penitentiary. He received more votes (915,940), but a lower percentage of the electorate (3.4), than in 1912. On Christmas Day 1921, President Warren G. Harding commuted his sentence. He was provided a railroad ticket from Atlanta to Washington. On December 26, he called first on Attorney General Harry M. Daugherty, and thereafter had a half-hour visit with President Harding at the White House. In the 1920 election, Harding had promised a return to normalcy, and he kept his word. (On Wilson's last day as President, Congress repealed the 1918 amendment to the Espionage Act, known as the Sedition Act.) But nothing would be quite the same again.

3. Loyalty

Loyalty had appeared. The day after the Declaration of War in 1917, President Wilson had issued an executive order in effect requiring government employees to support government policy, both in conduct and sympathy. The Order read:

Confidential

> In the exercise of the power vested in the President by the Constitution and the resolution of Congress of April 6, 1917, the following order is issued:
>
> The head of a department or independent office may forthwith remove any employee when he has ground for believing that the retention of such employee would be inimical to the public welfare by reason of his conduct, sympathies, or utterances, or because of other reasons growing out of the war. Such removal may be made without other formality than that the reasons shall be made a matter of confidential record, subject, however, to inspection by the Civil Service Commission.
>
> This order is issued solely because of the present international situation, and will be withdrawn when the emergency is passed.
>
> Woodrow Wilson
>
> The White House
> 7 April 1917[49]

In the manner of bureaucracy, the "emergency" lingered on. The Civil Service Commission was debarring persons from "future examinations" by reasons relating to "loyalty" as late as 1921, when the United States formally terminated the War.[50]

Clearly, the concept of loyalty predates the 20th century, but loyalty as a qualification determined by large organizations maintaining confidential records was new to American society. Three days after President Wilson asked for a Declaration of War, the Civil Service Commission was ready with a choice of executive orders "excluding from the Government service of any person of whose loyalty to the Government there is reasonable doubt." The Civil Service Commission had been established pursuant to the Pendleton Act in 1883; an act of modernization, under which the Executive Branch of the United States Government was becoming a recognizable bureaucracy. (A century later, efforts would begin to extend this mode of organization to the Legislative Branch.)

It is a distinctive, and seemingly universal characteristic of bureaucracy to conduct affairs by regulation—uniformity being the principle organizational goal. *Save* for the survival and well-being of the organization itself. Organizations are like that. To this end, one form of bureaucratic regulation is secrecy.

Max Weber first described this characteristic in the chapter "Bureaucracy," in his work *Wirtschaft und Gesellschaft* (*Economy and Society*), published after his death in 1920, but most likely written in part prior to World War I. He writes:

> Every bureaucracy seeks to increase the superiority of the professionally informed by keeping their knowledge and intentions secret. Bureaucratic administration always tends to be an administration of 'secret sessions' in so far as it can, it hides its knowledge and action from criticism.

> The pure interest of the bureaucracy in power, however, is efficacious far beyond those areas where purely functional interests make for secrecy. The concept of the 'official secret' is the specific invention of bureaucracy, and nothing is so fanatically defended by the bureaucracy as this attitude, which cannot be substantially justified beyond these specifically qualified areas. In facing a parliament, the bureaucracy, out of a sure power instinct, fights every attempt of the parliament to gain knowledge by means of its own experts or from interest groups. The so-called right of parliamentary investigation is one of the means by which parliament seeks such knowledge. Bureaucracy naturally welcomes a poorly informed and hence a powerless parliament—at least in so far as ignorance somehow agrees with the bureaucracy's interests.[51]

Weber describes an "ideal type" that in real life will vary from place to place and time to time. But nearly a century later, it can be agreed that the generalization holds, especially in a setting in which government chooses or is forced to be concerned about the loyalty of some portion of the citizenry.

For the concept of loyalty implied that there was much information within a bureaucracy which could be used to injure the Government or the national interest if revealed by disloyal persons to hostile nations or, for that matter, to internal elements hostile to our "way of life."

Anarchism, "a belief that every form of regulation or government is immoral,"[52] became a proto-international movement in the 19th century. In its terrorist mode, it had set about blowing up czars and such. After the assassination of President William McKinley, the United States by statute barred anarchists from entering the country. The arrest, imprisonment, and deportation to Russia of Emma Goldman was a celebrated case of the later Wilson years. (Poor Goldman had just gotten out of prison for distributing birth control information.) Idealists, no doubt, these were frequently violent persons who threatened the necessary state "monopoly on violence."

Even so, there does not appear to have been any systematic search for anarchists at the Federal level. This began with the Espionage Act, and in short order bureaucracies were compiling dossiers and government officials were classifying information by various degrees of secrecy. It would appear in this regard that the predecessor of today's three-tier gradation of Confidential/Secret/Top Secret (at that time, For Official Use Only/Confidential/Secret) was adopted by the American military from the British forces in France.[53] Again, it all begins in 1917.

4. The Encounter with Communism

If 1917 was an eventful year in the United States, it was a momentous one in Russia. In a cabinet meeting on March 20, following the sinking by German submarines of three American merchant vessels, President Wilson spoke of summoning Congress and, by all implication, asking for a Declaration of War. Secretary of State Lansing recorded that the President spoke of the situation in the belligerent countries, "particularly in Russia where the revolution against the autocracy had been successful. . . ."[54] Lansing took up the point to argue that "the revolution in Russia, which

appeared to be successful, had removed the one objection to affirming that the European War was a war between Democracy and Absolutism . . ." Further, American entry into the War "would have a great moral influence in Russia. . . ."[55] This was a moment all but erased from history by the events that followed.

That autumn, the Bolsheviks seized power and created the world's first totalitarian regime. On October 26 (on the Russian calendar), the day after the "storming" of the Winter Palace in St. Petersburg, Lenin pronounced in *Pravda* that the "dictatorship of the proletariat" had commenced. If hardly a democratic society, Czarist Russia was even so a reasonably open one. (*Pravda*, which began publication on May 5, 1912, was freely circulated.) All this was now supplanted by terror, violence, and above all, secrecy. If something like the Soviet regime had been envisioned, both by those who had great hopes for it and those who instinctively feared it, none seem to have anticipated that secrecy would be its most distinctive feature. Everything that went on in government was closed to public view. Civil society ceased to exist. Only the nameless masses and the reclusive leaders remained.[56]

Soviet secrecy carried over into foreign affairs. The new regime was both threatened and threatening. Early on, American, British, and French expeditionary forces were sent to overturn the new Bolshevik Government and so, somehow "keep Russia in the war." (It could be fairly remarked that the United States took this intervention rather too offhandedly. Nothing came of it, so that we may be said not to have assumed that it would affect Soviet attitudes and conduct. As it was, the United States did not recognize the Soviet government and exchange ambassadors until 1933.)

Even while under attack, however, the Soviets began recruiting secret agents in foreign countries. They saw themselves as leaders of a worldwide movement—the red flag, symbol of universal brotherhood—and anticipated early success as other regimes began to collapse at the close of the War. Some agents were undercover, some quite public, some both.

John Reed, a 1910 Harvard graduate, was of the latter sort. In 1913, he joined the staff of the *Masses*, a socialist journal published in New York. (Its fame is in large measure accounted for by the illustrations of John Sloan and other painters and illustrators of the Ashcan School.) In August, 1917, Reed wrote an article, "Knit a Straight-Jacket for Your Soldier Boy." This brought upon him prosecution under the Espionage Act and, with his acquittal, a measure of fame in his own circles.[57]

But the great event was his trip to Russia, where he witnessed the Bolshevik coup. His account, *Ten Days that Shook the World*, appeared in 1919 (soon after his acquittal in the *Masses* trial) and was a master work of what would come to be known as *agitprop*. He attended the All-Russian Soviet convention in January 1918. In the summer of 1919 he was expelled from the Socialist Party of America at its convention in Chicago and thereupon helped found the Communist Labor Party. He died in Russia of typhus on October 17, 1920, and was buried in the wall of the Kremlin in Moscow, the equivalent—then—of interment in St. Peter's in Rome. Lenin wrote an introduction to one edition of his book, although he did not live to see the movie (*Reds*, 1981).

Reed was a Soviet agent. On January 22, 1920, he received from the Comintern gold, jewels, and other valuables worth 1,008,000 rubles for Party work in the United States.[58] The United States Government did not know this. It has only just been discovered in Soviet archives.

(That and much more.) For the next seven decades the United States Government would be the object of a sustained Soviet campaign of infiltration and subversion. There would be, as with Great Britain, a measure of success among elites, but in the pattern now already seen, an ethnic factor would be the most prominent.

In the beginning, most American Communists would be Russians. The Communist Party of the United States of America (CPUSA) was organized at Moscow's behest in 1921, merging Reed's Communist Labor Party with the Communist Party of America, organized by a former socialist, Midwesterner Charles Emil Ruthenberg. The membership was not large and was overwhelmingly foreign-born.[59] Theodore Draper, in *The Roots of American Communism*, estimates that 10 percent spoke English. Harvey Klehr et al., make that 12 percent.

Draper comments: "It is just to say that the American Communist movement started out as a predominantly Slavic movement. . . ." In a familiar pattern, immigrants brought their politics with them, or responded sympathetically to political changes in their homelands.[60] He goes on to state that this situation changed as "Americans" and "other nationalities" joined the movement.[61] But the ethnic dimension of American Communism never ceased, albeit at times it was overshadowed by the likes of John Reed.

Perhaps a quarter of a million persons passed through the Communist Party between 1919 and 1960—with emphasis on passing through.[62] Nathan Glazer estimates that at the peak of popularity there were "considerably fewer than 100,000 Communists."[63] Nor did the Party, or parties in the first instance, have an auspicious beginning. Fear of radical revolutions got out of hand in 1919-20. There was a good deal of disorder, and no small amount of criminal behavior. On May Day, 1919, some 36 bombs were sent by mail to prominent politicians, judges, and other "enemies of the left."[64] The *New York Times* wrote of a "nationwide bomb conspiracy." The Washington house of Attorney General A. Mitchell Palmer was damaged by a bomb which went off prematurely and blew up the bomber.

All this would appear to have been a last surge of anarchism, but it was generally taken for Bolshevism. "Russian Reds Are Busy Here," ran a *New York Times* headline. Palmer, the "Fighting Quaker," responded with major cross-country raids—the Palmer Raids—on radical organizations, including the New York-based Union of Russian Workers, on November 7-8, 1919, the second anniversary of the Bolshevik Revolution. On January 2, 1920, Federal agents arrested more than 4,000 Communists in 33 different cities as undesirable aliens deserving of deportation.[65] The *Washington Post* warned "[t]here is not time to waste on hair-splitting over infringement of liberty." J. Edgar Hoover, a 24-year old Justice Department official, located a U.S. Army transport, termed the "Soviet Ark," to take a shipload of radicals home, and invited Members of Congress to see them off at Ellis Island. He now emerged as a national figure, whilst his superior, the Attorney General, began making plans to run for President.

The unrest did not last. May Day 1920 passed without incident. With his credibility badly damaged, Palmer saw his presidential aspirations erode. Warren G. Harding, running for President against Democrat James Cox, said that "too much has been said about Bolshevism in America."[66] The Democratic administration, leaderless following Wilson's stroke on October 2, 1919, had become undisciplined and erratic. Such intervals would recur, with both parties involved, but now a sense of civic order returned. Draper observes:

> Ironically, the Palmer raids came as a blessing in disguise to the foreign-language federations. More than ever they were able to imagine themselves Russian Bolsheviks in America. Had not the Russian Revolution been forced to work illegally almost to the very eve of the seizure of power? Was there any fundamental difference between Palmer's prisons and the Czar's dungeons, the Bureau of Immigration's deportations and the Ochrana's exiledom in Siberia? If the Russian road to the revolution was right, then the postwar repression in the United States merely offered additional proof that the American revolution was really approaching. The underground character of the movement became the supreme test of its revolutionary integrity. A truly revolutionary organization by definition had to suffer repression, as in Czarist Russia. The Russia hypnosis made a necessity into a virtue.[67]

And now the new rulers of Russia turned their acolytes into agents. Klehr et al., write:

> Soviet intelligence was able to make use of the Comintern and its operatives because from its foundation, the Communist International had encouraged Communist parties to maintain both a legal political organization and an illegal or underground apparatus. Among the twenty-one conditions required for admission to its ranks, the Comintern in 1920 stipulated that all Communist parties create an illegal "organizational apparatus which, at the decisive moment, can assist the Party to do its duty to the revolution." These underground apparatuses were intended both to defend the Communist movement from police repression and to promote secret political subversion.
>
> Comintern representatives often traveled on false passports, entered countries illegally, and carried large amounts of cash and valuables to distribute secretly to local party leaders and organizations. The Comintern maintained clandestine courier services, secret mail drops, and systems of coded telegraphic and radio communications with foreign Communist parties. Year after year the Comintern issued instructions and pleas to its member parties to form secret units, train cadres to operate illegally, and prepare systems of safe houses and fake identification documents to protect its key officials in case of repression by hostile governments. Communists, in short, were not novices at the kind of work required for espionage. Soviet intelligence agencies quickly recognized that they could piggyback on these activities for espionage operations.
>
> The United States did not officially recognize the USSR until 1933. Before that date, Soviet money for the American Communist movement had to be sent by way of secret couriers. The earliest known subsidies were sent in 1919. **** Four payments [are recorded as sent to] America; 209,000 rubles to Kotliarov on 16 July 1919, 500,000 rubles to Khavkin on 30 September 1919, [as noted] 1,008,000 rubles to John Reed on 22 January 1920, and 1,011,000 rubles to Anderson on 31 January 1920. ****These four subsidies alone add up to 2,728,000 rubles. The value of the ruble on foreign exchange markets fluctuated wildly from 1919 to 1922 before the Soviets stabilized the "hard" ruble used for international trade at between $1 and $2. The Comintern document records that the subvention for American operations was in "value," a term in Comintern bookkeeping meaning that the sums were transmitted in the form of gold, silver,

> or jewels rather than currency. Thus, this account reveals that in this period the Comintern supplied the tiny American Communist movement with the equivalent of several million dollars in valuables, an enormous sum in the 1920s.[68]

In time the size of the subsidies fell off, but even so, they continued.[69]

There were several consequences of the relative isolation of American Communists. Apart from the intellectual circles in Manhattan and a very few other metropolitan centers, and apart from elements in the American labor movement, Communists were almost unknown. Among intellectuals, and especially within the labor movement, the encounter with Communism produced an often fierce anti-Communist response. (From the beginning of the Cold War to its end, the American Federation of Labor was unmatched in its understanding of Communism and its opposition to it.) In time, an opposition appeared in the form of ex-Communists who had broken with "the Party," or disillusioned "fellow travelers." With a sure sense of things to come, Ignazio Silone predicted that the "final battle would be between Communists and ex-Communists"—such was the insight and loathing of the latter.[70]

Even so, there was a measure of social distance on the part of most ex-Communists such that their tales when told often seemed too exotic to be true. They were easily dismissed as fantasists or worse. Klehr et al., write of Benjamin Gitlow, an early Communist leader who was expelled from the Party in 1929, in one of the recurrent purges that followed Stalin's exile of Trotsky:

> A decade later he testified before a congressional committee that in its early years the party often received its Soviet subsidies in the form of diamonds and jewelry, which it then converted to cash with the aid of sympathetic businessmen. But, like so many defectors from communism, Gitlow has frequently been regarded as an unreliable witness and his testimony discounted.[71]

Trotsky was an emblematic figure. He was living in Manhattan when the Bolsheviks came to power in St. Petersburg; rushed home, became foreign minister, commanded armies, might have succeeded Lenin, was exiled by Stalin, and in time was assassinated in Mexico City. In his autobiography, *Out of Step*, Sidney Hook, professor at New York University and a one-time Communist who, with many a New Yorker, followed Trotsky into opposition to Stalin, relates: "Ironically, it was one of my students, Sylvia Ageloff, who unwittingly gave Trotsky's assassin access to commit the murder."[72] Ageloff's sister served for a time as secretary to Trotsky in Mexico City. She visited her sister; Trotsky and his wife grew fond of her. Back in New York, a woman friend casually offered Ageloff a ticket to Paris that she herself could not use. In Paris she met a dashing young Belgian journalist; her first love. He was, in fact, Ramon Mercader, "whose mother was a leading member of the Spanish Communist Party, . . . then living with a general of the NKVD in Moscow."[73] In 1940, with Ageloff's guileless help, Mercader made his way to Mexico City, joined Trotsky's household, and thereupon murdered him.

Back in New York, there now commenced yet another raging battle between Stalinists and Trotskyites. Who/whom into an eternity of commissions, and conventions, and contentions. As ever, the party-line Communists lied about everything; we now know that Mercader was indeed a KGB agent, and that in 1943, the KGB even planned a commando raid to free him from Mexican prison.[74] Life and death issues in New York City; little noticed in the rest of the nation.

In 1948 Whittaker Chambers, at one point in the early 1930s a contributor to the Communist publications the *Daily Worker* and the *New Masses*, later an editor at *Time*, would startle the nation with the assertion that in the mid-1930s he had been an undercover agent of the Soviet Union and a member of a Washington "cell" that included, most prominently, Alger Hiss. A great controversy arose. Could Chambers have possibly been telling the truth? Again to cite Sidney Hook, "everyone" in New York in the 1930s knew his past. (". . . I assumed—and I am confident that I was not the only one—that Chambers was engaged in underground work after he left the *New Masses*.")[75] He broke with the Party; then he realized the penalty for this could be Death.

> Chambers was on the verge of hysteria, convinced that, because he had become a faceless, nameless, unknown creature of the underground, his elimination either by murder or kidnaping would remain undetected. His goal was to become a *public* character again, to emerge under his own name and thus prevent his disappearance into the shadows.[76]

Hook advised a complicated "'life insurance' policy" whereby Chambers would "draw up a detailed list of all the Soviet operatives he knew, all the 'sleepers' in Washington and elsewhere, anyone who had given him any information" and send this to Earl Browder, then head of the American Communist Party, with the further information that if Chambers were murdered the list would be made public. Hook continues: "When Chambers first publicly identified his fellow-conspirators in 1948, the names were quite familiar to me." They were the same names he had given to a mutual friend, Herbert Solow, in 1938. They were the same names Chambers had given to Adolph Berle, then Assistant Secretary of State, in 1939.

> Years later, in 1953, I questioned Berle about the incident and its aftermath. He painted a very vivid picture of the confusion that prevailed in Washington at the time Chambers showed up in his office. World War II had begun, and "the world was falling to pieces around us." Nonetheless, despite his initial incredulity at the bizarre tale, Berle steadfastly insisted that he had sent word of Chambers' story to the White House. Berle himself ended up convinced that it was true. Fortunately Berle kept his notes of his meeting with Chambers, which listed the names Chambers had identified as his confederates.[77]

And so the interval of 1918 to 1939 concluded and the Great War resumed. During that interval the Soviet Union had put in place a fairly elaborate espionage apparatus, more or less reflexively. From the Soviet perspective the United States was a somewhat marginal power, but even so, spies might in time prove useful. As indeed they would, however briefly. For its part, the United States Government was not much interested in such matters. The anti-Communist hysteria of 1919-1920 was seen, especially within the circles of the administration of Franklin D. Roosevelt, as something of an embarrassment. As President Harding had stated, "too much has been said about Bolshevism in America."

Looking back on that period, David Riesman wrote in 1952:

> Twenty and even ten years ago, it was an important intellectual task . . . to point out to Americans of good will that the Soviet and Nazi systems were not simply transitory stages, nor a kind of throwback to the South American way—that they were, in fact, new forms of social organization, more omnivorous than even the most brutal of earlier dictatorships. At that time, there were many influential

> people who were willing to see the Nazis as a menace but insisted that the Bolsheviks were a hope.[78]

Besides, the Bolsheviks were now the established rulers of a major power; potential opponents in the East of the Nazi regime in Germany, which had begun its devastating conquests in the West. And, of course, the great secret of American Government at this time was that, some military matters apart, it had none.

5. The Experience of the Second World War

The Great War resumed in 1939. The combatants were much the same; war, however, was changing with the advent of aerial bombardment. The very idea had once seemed repellent. The First Hague Conference banned bombing from balloons, but the Germans went ahead even so to develop the first strategic bombing force, using dirigibles. Soon actual "bombers" were developed; for which the all-important appurtenance was the "bombsight."

In the 1920s an American inventor, Carl L. Norden, had developed a device that promised precision high-altitude bombing. The "Norden Bombsight" became America's most important secret. By November 1937, German spies had stolen the complete plans. The theft was part of a large German espionage operation that would be known as the "Ritter Ring" for Colonel Nikolaus Ritter, who directed it from Hamburg. The Norden operation was carried out by Hermann Lang, a 36-year-old native of Germany, now a naturalized U.S. citizen living in a German-American neighborhood in Queens, New York. He worked as an assembly inspector at the Norden plant on Lafayette Street in downtown Manhattan. (An equivalent facility today would be located in New Mexico and surrounded by electrified fence. But we were learning!) Lang evidently considered himself a German patriot, and he copied the bombsight plans as an act of German patriotism.[79]

Soon, however, the Federal Bureau of Investigation was onto the operation. Another participant in the Ritter Ring was one Fritz Duquesne, an Afrikaner of Huguenot descent, born in 1877 in the Cape Province, and so a witness to the Boer War. By the 1930s, he was a naturalized U.S. citizen, but was willing to spy against the United States if in so doing he would be "working toward the destruction of his hated enemy, England."[80] On June 29, 1941, 23 members of the Ritter Ring—nineteen in New York and four in New Jersey—were arrested in what J. Edgar Hoover termed for Walter Winchell's broadcast that evening "the greatest spy roundup in U.S. history."[81]

At some level, espionage was becoming entertainment. There would be a movie in 1945, loosely based on the activities of the Ritter Ring, *The House on 92nd Street*. The Federal Bureau of Investigation now acquired a firm place in the national imagery as the nemesis of sovereign subversives, with German and later Japanese spies taking the place of 1920s gangsters. This was partly the personality of the Director, but also intrinsic fascination with the subject of espionage, as evidenced by the spy novel and any number of moving pictures of the 1930s. Much of this was entertainment, and no more; some part reflected anxieties. But also, and with far greater consequence, the United States Government was acquiring—principally in the FBI, but not exclusively—an organized capacity to defend against foreign attack and, most importantly, was beginning to learn the art of infiltration where there was a "domestic" component to the foreign attack.

Note two uniformities. Twentieth century war requires, will be seen to require, measures directed against enemies both "foreign *and* domestic." Such enemies, real or imagined, will be perceived both in ethnic terms and ideological terms.

A further uniformity: Government responds to domestic threats by regulatory measures to ensure the loyalty of the government bureaucracy and the security of government secrets, and by statutory measures to protect against disloyal conduct on the part of citizens and, of course, foreign agents.

We do well to be wary of rules of organizational behavior, much less of political affairs. But then, are we not equally obliged to be mindful of the view of the Framers of the U.S. Constitution that they had discovered, in James Madison's phrase, "a new science of politics" which brings stability to the constitutional government they devised? (As noted, in secret!)

The record of 1917 and the years immediately following is instructive. President Wilson looked up the rules, in this case the law of the sea, and decided that Germany was in gross and criminal violation. Whereupon the United States Government declared war. New laws and regulations were dutifully enacted. But events got out of hand. In time, it was the conduct of the United States Government that approached the illegal. A possible explanation for this is that the Government at this time had no organized means of assessing danger and dealing with it.

It is notable that there was little anti-German hysteria during the Second World War, in great contrast to the First. In measure, this may be accounted for by the success of the first round in suppressing the German presence in American culture, largely defined.

To return for just a moment, the anti-German hysteria—not too strong a term—of the First World War was unlike anything previously known in the ethnic history of the United States. Consider this passage from the *Harvard Encyclopedia of American Ethnic Groups*:

> Public burnings of German books were frequent. By summer 1918 about half of the states had restricted or eliminated German-language instruction, and several had curtailed freedom to speak German in public. The German press suffered under the censorship powers of local postmasters, and pacifist Mennonites endured harsh attempts to force conscription on them.
>
> One German-American response was a decided shift to the Republican party in the elections of 1918 and 1920, but far more significant was the rapid dismantling of the associational structure of German America. The total number of German-language publications declined from 554 in 1910 to 234 in 1920; daily newspaper circulation in 1920 was only about a quarter of its 1910 level. Language shift accelerated rapidly in the churches as elsewhere; in 1917 only one-sixth of the Missouri Synod Lutheran churches held at least one English service a month, while at the end of the war, three-quarters were doing so. The National German-American Alliance dissolved in April 1918 under Senate investigation.[82]

Even so, German Nazis made a considerable effort to establish an American base. The *Harvard Encyclopedia* records: "Recruiting began as early as 1924, but the first large-scale organization was the Friends of New Germany, organized in July 1933 after orders from Berlin dissolved the existing Nazi cells."[83]

A new immigrant, Fritz J. Kuhn, promptly joined. By 1936, Kuhn had become leader of the *Amerika-Deutscher Volksbund*, formed at Buffalo, New York, thenceforth a not insignificant political presence popularly known as "the Bund." On George Washington's Birthday, 1939, Kuhn and his allies organized a mass rally in Madison Square Garden in New York; the newsreel coverage was stunning. A Nazi rally, uniforms, salutes: arouse the masses to the struggle against "Rosenfeld's Jew Republic." Robin Edwin Herzstein estimates that the Bund "probably" consisted of some 6,500 "activists" at this time, with a combined pool of 50,000 to 100,000 sympathizers, family, and friends.[84] In about the same range, that is, of the early Communist Party. The differences were perhaps not that different. Herzstein describes the same immigrant core, with much the same apocalyptic fantasies:

> When the Depression struck, many of these newly arrived Germans found themselves in dire straits. Unemployed or engaged in menial tasks like dishwashing, these disappointed people found solace in the Bund. They could leave their cramped cold-water flats, head for a local *Stube*, and sit around drinking beer. The conversation often turned to the Jews and to the misery of living in Roosevelt's America. Tens of thousands of such people attended Bund meetings and rallies. Better educated leaders, like Fritz Kuhn, found them easy to manipulate.
>
> Kuhn and his associate Gerhard Wilhelm Kunze made themselves the spokesmen of these alienated recent immigrants. Like Hitler, they hoped that the United States would fragment into an ethnic free-for-all. As one of the Bundist put it, "This will happen here. It is inevitable. When that day comes, and it is probably not far-off, we must be prepared to fight for the right kind of government. We must win the masses to our side." When *der Tag* (the Day) arrived, the Bund had to be ready to grab its share of the loot.[85]

There was even the reaching out to other ethnic groups reminiscent of the earlier experience: White Russians, Italians, Irish. The differences, however, were decisive. At the end of 1939, Kuhn was jailed for embezzlement; by 1941, Nazi Germany had declared war on the United States; and by 1945, the Third Reich was crushed. There was not time for the impact Soviet Communism had, nor anything like the range of receptive audiences.

That said, the onset of the Second World War found the United States significantly better *organized* to deal with subversion, real or imagined. After war broke out in Europe in 1939, the government posted FBI agents in embassies in Latin America to compile information on Axis nationals and sympathizers. (A practice that continuously expanded thereafter.)[86] The FBI was, of course, active at home as well as abroad. Within three days of Pearl Harbor, some 1,291 Japanese, 857 Germans, and 147 Italians had been taken into custody.[87] However, the Federal law enforcement agency was much restrained in contrast with the public and some state officials, notably California Attorney General Earl Warren. On February 3, 1942, Director Hoover wrote to Attorney General Francis Biddle:

> The necessity for mass evacuation is based primarily upon public and political pressure rather than on factual data. Public hysteria and in some instances, the comments of the press and radio announcers, have resulted in a tremendous amount of pressure being brought to bear on Governor Olson and Earl Warren, Attorney General of the State, and on the military authorities. . . .

> Local officials, press and citizens have started a widespread movement demanding complete evacuation of Japanese, citizen and alien alike.[88]

Which was indeed the case.

On February 13, 1942, Congressman Clarence Lea of California, the senior West Coast Representative, wrote to President Roosevelt on behalf of the Members of Congress from California, Oregon, and Washington:

> We recommend the immediate evacuation of all persons of Japanese lineage and all others, aliens and citizens alike, whose presence shall be deemed dangerous or inimical to the defense of the United States from all strategic areas. . . .
>
> We further recommend that such areas be enlarged as expeditiously as possible until they shall encompass the entire strategic area of the states of California, Oregon and Washington, and the Territory of Alaska.[89]

Such views prevailed.

On February 19, 1942, President Roosevelt issued Executive Order 9066, "Authorizing the Secretary of War to Prescribe Military Areas." The Order gave the Secretary of War the power to exclude persons from designated areas, in order to provide "protection against espionage and against sabotage to national-defense material."[90]

No group was singled out, but the result was that Japanese aliens, along with American citizens of Japanese descent and Alaskan Aleuts, were prohibited from living, working, or traveling on the West Coast of the United States. Between May 8, 1942, and March 20, 1946, a total of 120,313 persons of Japanese descent living on the West Coast were interned in relocation camps in the West, the last of which was closed on March 20, 1946. In Latin America, some sixteen countries interned at least 8,500 Axis nationals. Where governments were reluctant, the United States did the job for them. In 1942 Peru deported some 1,000 Japanese, 300 Germans, and 30 Italians to the United States. Some Japanese were in American custody as late as 1949.[91]

Some argued that Germans and Italians should be dealt with in much the same way. But the Germans and Italians were far more numerous, making internment prohibitive, and their political influence was more formidable. On May 15, 1942, Secretary of State Stimson recommended to the President at a cabinet meeting that particular individuals should be excluded from militarily sensitive areas, but not entire classes of Germans or Italians.[92] On October 12, 1942, Columbus Day, Attorney General Biddle announced that Italian aliens would no longer be classified as enemies.[93] Germans remained technically enemy aliens, though by January 1943, most restrictions on Germans had been removed.

By comparison with the public arousal and resistance that accompanied the "red-baiting" period of the late 1940s and early 1950s, there was little protest at the internment of Japanese and others during World War II. The Roosevelt administration never experienced any loss of reputation; Earl Warren went on to become Chief Justice of the United States. In time—more than four decades later—Congress made amends by means of the Civil Liberties Act of 1988, which states that the Japanese internment was:

> carried out without adequate security reasons and without any acts of espionage or sabotage documented . . . , and was motivated largely by racial prejudice, wartime hysteria, and a failure of political leadership.[94]

The Act provided redress for about 80,000 survivors of the internment, who were eligible to receive $20,000 each. More importantly, they received an apology from Congress, on behalf of the American people.

Extend the term "racial prejudice" to include ethnic and religious prejudice and we see a pattern of response to crisis that seems fairly fixed. In 1943, Lieutenant General John L. DeWitt, Western Defense Commander, issued *Final Report: Japanese Evacuation from the West Coast, 1942*, which contains this passage:

> In the war in which we are now engaged racial affinities are not severed by migration. The Japanese race is an enemy race and while many second and third generation Japanese born on United States soil, possessed of United States citizenship, have become "Americanized," the racial strains are undiluted. . . . There are indications that [West Coast Japanese] are organized and ready for concerted action at a favorable opportunity. *The very fact that no sabotage has taken place to date is a disturbing and confirming indication that such action will be taken.*[95] (Emphasis added.)

The latter statement verges on clinical paranoia, in which the absence of overt threat is interpreted as a means of allaying suspicion in a situation of real danger. This can be the mark of a troubled mind. It can also, however, be the mark of profound insight into the ways of the world. Hence the impulse to secrecy by befuddled minds as well as vigilant ones.

6. The Experience of The Bomb

The Second World War came to a close in August 1945 when the United States dropped two atomic bombs on Japan. The most awesome secret in the history of warfare was now revealed to the world. In time the United States would learn that it was already known to Communist spies.

The atom bomb changed warfare. For the United States, atomic espionage changed peacetime as well. Nothing since has been the same.

Prometheus-like, man stole fire from the gods. Maurice M. Shapiro, now chief scientist emeritus of the Laboratory for Cosmic Physics at the Naval Research Station, in Washington, recalled the scene in the New Mexico desert:

> At precisely 5:30 there was a blinding flash—brighter than many suns—and then a flaming fireball. Within seconds a churning multicolored column of gas and dust was rising. Then, within it, a narrower column of debris swirled upward, spreading out into an awesome mushroom-shaped apparition high in the atmosphere.[96]

Next came "an oppressive sense of foreboding." J. Robert Oppenheimer recalled a line from Hindu scripture:

> We waited until the blast had passed, walked out of the shelter and then it was extremely solemn. We knew the world would not be the same. A few people laughed, a few people cried. Most people were silent. I remembered the line from the Hindu scripture, the *Bhagavad-Gita*: Vishnu is trying to persuade the Prince that he should do his duty and to impress him he takes on his multi-armed form and says, "Now I am become Death, the destroyer of worlds," I suppose we all thought that, one way or another.[97]

The scientists at the site knew that if the test worked it would end the War, as it did within a month, and forever change the nature of warfare. It was the culmination of four years of secret work. Before the next year was out, we would learn that Communist spies had stolen the secret. Our punishment would now begin.

This was a complex fate. But then, so was that of Prometheus. For his audacity he was chained to a mountain where daily his liver (which grew again at night) was consumed by an eagle. He was freed at length by Heracles. So, at length, might the United States be freed from the long torment of secrecy that followed if we will but think more clearly about its uses and its limits.

These were both on display on those hilltops in New Mexico at the moment of the Trinity test. The scientists present had submitted to an unfamiliar and altogether uncongenial secrecy, because they knew what was at stake. Hans Bethe of Germany, Enrico Fermi of Italy, and James Chadwick of Britain would have especially known what was at stake. There was no real scientific secret to atomic fission; German scientists knew it. There *are* no secrets in science. Oppenheimer and his associates had "simply" figured out the techniques and found the resources to build a bomb before our enemies did. Shapiro recorded the openness of scientific discourse even at that moment of profound concealment:

> While waiting for the rain to abate so that the test could begin, Dr. Bethe and I discussed his epochal discovery of the thermonuclear reactions that power the sun and stars. For me it was a memorable dialogue: we were about to witness the first massive fission explosion, yet we talked of controlled fusion—the steady burning of hydrogen in stars. We pointedly did not discuss the prospect of future H-bombs, also based on thermonuclear reactions.

But this would come; it had to come. Thanks to successful espionage, the Russians tested their first atom bomb in August 1949, just four years after the first American test. As will be discussed, we had learned of the Los Alamos spies in December 1946—December 20, to be precise. The U.S. Army Security Agency, in the person of Meredith Knox Gardner, a genius in his own right, had broken one of what it termed the VENONA messages—the transmissions that Soviet agents in the United States sent to and received from Moscow.

The Soviets had the names of the principal scientists working at Los Alamos. This could only mean they were after the secrets of the bomb. It would be some time before we knew they had gotten them, but alarms now rang throughout the American Government. (American scientists knew that in any event the Soviets would have this capability in time.)

BRIDE

TOP SECRET

TO BE KEPT UNDER LOCK AND KEY:
NEVER TO BE REMOVED FROM THE OFFICE.

SUEDE

USSR

RUDAI-2A

Ref No: S/NBF/T193

Issued: Z/0/21/5/1952

Copy No: 205

1. LIST OF SCIENTISTS ENGAGED ON THE PROBLEM OF ATOMIC ENERGY.

2. UNSUCCESSFUL EFFORTS OF AN UNIDENTIFIED PERSON (POSSIBLY "STAR") TO CONTACT NICHOLA NAPOLI AND "HELMSMAN".

From: NEW YORK

To: MOSCOW

No: 1699 2 Dec 1944

Conclusion of telegram No. 940 [sic][i].

Enumerates [the following][a] scientists who are working on the problem[ii] - Hans BETHE, Niels BOHR, Enrico FERMI, John NEWMAN, Bruno ROSSI, George KISTIAKOVSKI, Emilio SEGRE, G.I.TAYLOR, William PENNEY, Arthur COMPTON, Ernest LAWRENCE, Harold UREY, Hans STANARM, Edward TELLER, Percy BRIDGEMAN, Werner EISENBERG, STRASSENMAN
[7 groups unrecoverable]
our country addressed himself to NAPOLI[iii] and the latter, not wanting to listen to him, sent him to BECK [BEK][iv] as military commentator of the paper. On attempting to visit HELMSMAN [RULEVOJ][v] he was not admitted to him by the latter's secretary.

ANTON

[T.N. and Comments overleaf]

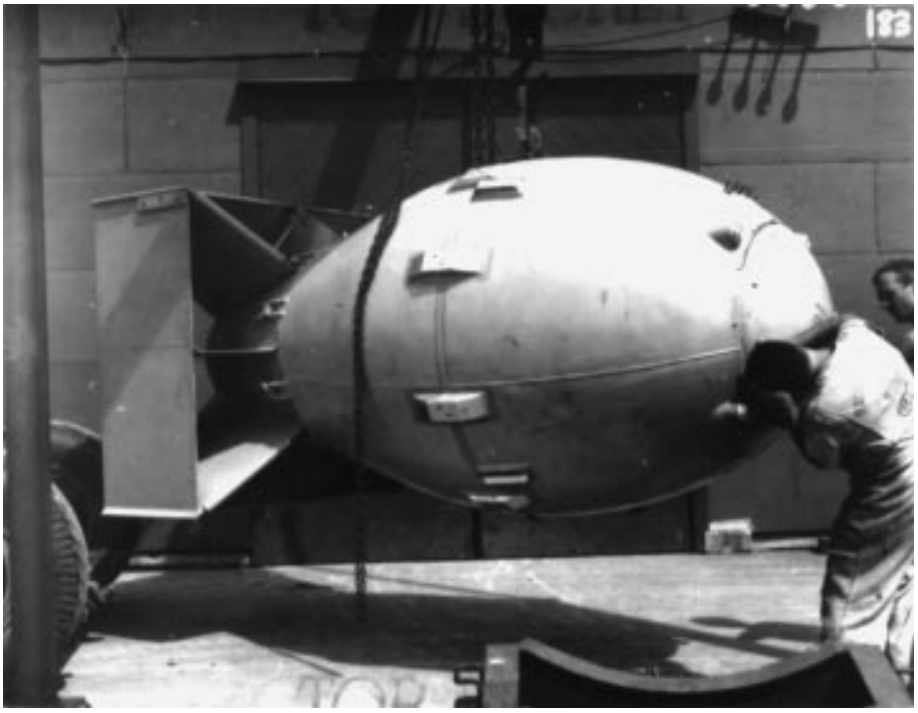
Distribution

The United States Government set out to forestall a nuclear arms race. President Harry S Truman proposed to the United Nations a plan to control atomic weapons, known as the "Baruch Plan" for his representative, Bernard M. Baruch. This was blocked by the Soviet Union, whose leader Joseph Stalin was determined to have his own bomb. The first Soviet A-bomb test took place in August, 1949. It was a near-exact copy of "Fat Man," the American weapon that destroyed Nagasaki in August 1945.

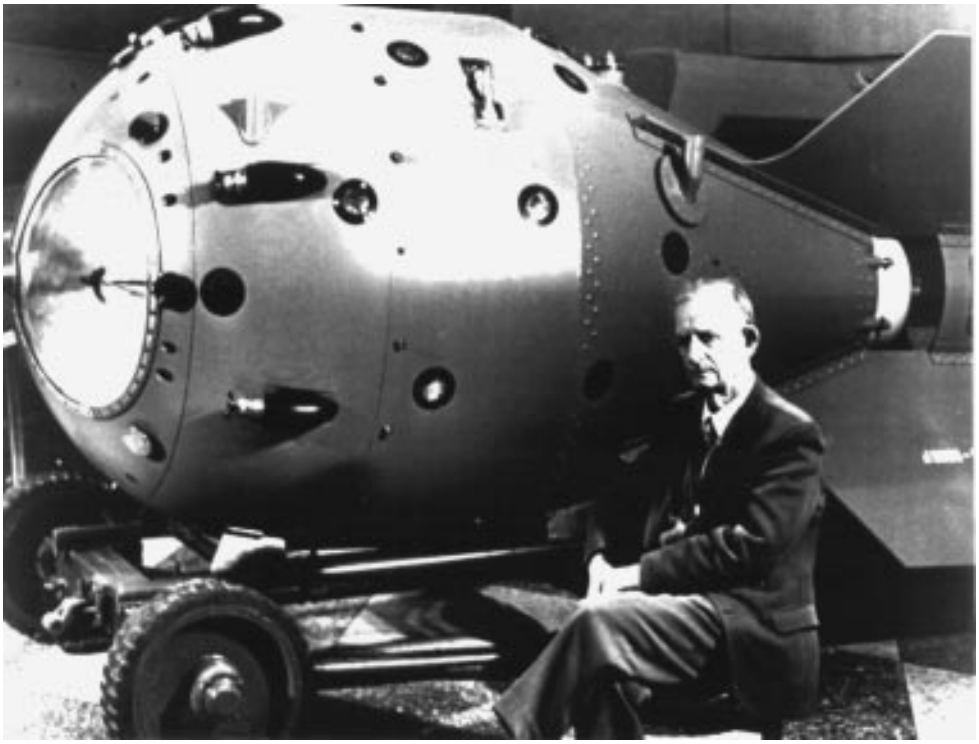
Now the stakes were raised. This sequence was described in a lecture by Hans Bethe, "My Road From Los Alamos," given at the University of Maryland on December 8, 1994. For a period it was not clear whether a fusion weapon was technically possible. The mathematician Stanislaw Ulam and the physicist Edward Teller demonstrated that it was. Dr. Bethe's lecture describes what followed with the succinctness of the historical moment:

> When Truman made his decision [to accelerate the hydrogen bomb project], it was not clear whether the hydrogen bomb actually could be developed. However, early in '51—about a year after Truman's decision—there was an ingenious idea by Ulam and Teller, both of them, just how to make a hydrogen bomb. It was so convincing that it was clear that not only the United States could make it but surely there were competent physicists in the Soviet Union who could do it as well. And this being so, it was then clear that it had to be done and in spite of my apprehension, I agreed to participate for a good half-year in developing the hydrogen bomb. We concluded it had to be done because the Soviets could, we believed, do it too. And indeed it was done by Sakharov and his collaborators.
>
> I have listed here the tests of the hydrogen bomb, beginning in 1952, which were made.
>
> First the U.S. tested a device which could not have been delivered in a war, which consisted of liquid deuterium. And it worked. It worked, in fact, impressively, giving a yield of some 10 megatons.
>
> This was followed in August '53 by a Soviet test which Sakharov called the "layer cake," alternate layers of uranium and liquid deuterium to provide the nuclear fuel which is necessary for a fusion reaction. This would have been deliverable, its yield of energy of four-tenths of a megaton.
>
> In '54 the United States made tests in the Pacific where they tested various variations, all with liquid deuterium, and developed some three or four different hydrogen bombs, each giving about 10 megatons.
>
> And finally in November '55, there was an additional Soviet test. Sakharov had, in the meantime, hit upon the idea of Ulam and Teller, and produced a device just like ours. They deliberately reduced the yield of it so they could deliver this bomb from a plane to the . . . test ground and the plane could get away. This could have been three megatons.

As Bethe's remarks make clear, the Soviets did not steal the "Teller-Ulam method." Their own scientists discovered it, as scientists will do once certain principles are abroad. But the hydrogen



Model of the "Fat Man," the atomic bomb detonated over Nagasaki, Japan on August 9, 1945. (Source: National Archives and Records Administration.)



Iulii Khariton with a copy of the first Soviet atomic bomb, detonated on August 29, 1949. (Source: Dr. A. Iu. Semenov, 1992. Reprinted with permission.)

bomb began, obviously, as a weapon, and as a weapon, for the most obvious reasons, its details were kept as secret as possible.

With, however, an all-important difference. There was no way to keep the whole world from knowing *about* the secret, for the simple reason that the bombs had to be tested. The weapon was new, and there was much to be learned about it, and the only way to do so was to set one off. Thus began a series of "tests" by assorted nuclear powers which continue almost to this day. But none since has quite seized the world's imagination as did the underwater explosion in 1946 on Bikini, a small coral atoll in the Marshall Islands, designed to test the effect of the atom bomb on naval armament and equipment and on certain forms of animal life. The photographs were unforgettable. One caption reads: "An Awe-Inspiring Mushroom Cloud rises above Bikini atoll in an underwater atomic bomb test. The mighty column of water dwarfs huge battleships." One ship captain, apprised of radioactive fallout, ordered the decks swabbed. Captain Cook might have done as much; such was the suddenness with which this new age came upon us. The Bikini tests were followed in 1948 with the tests of three weapons at Eniwetok atoll, two hundred miles west in what was now termed the Pacific Proving Grounds.

The tension between great publicity and even greater secrecy finally led *Life* magazine to "tell all." In lengthy articles, "The Atom" in May 1949, and "The Atomic Bomb" in February 1950, the fundamentals of the science and the particulars of the weapon were set forth in layman's language. Americans were not yet used to this much secrecy. Secrecy, that is, which they *knew* about. The editors of *Life* were clearly upset by the imbalance of what they termed "Necessary security and unnecessary secrecy. . . ." They were, even so, scrupulous. A preface to the article on "The Atomic Bomb" declares: "This article reveals no secrets. It is based on published, unclassified material that can be found by anyone, including the Russians, in public libraries." The text of the article invokes a number of the nation's most respected journalists and commentators to the effect that secrecy was getting out of hand:

> For the past five years the operations and results of the U.S. atomic weapons program have been almost completely unknown to the public. The critical facts about this greatest of all publicly owned enterprises have been withheld, partly because of essential security restriction. But a larger factor behind the present state of public ignorance is the extension of secrecy far beyond the limits of true security.
>
> This growing disparity between required security and officially imposed secrecy has recently come in for sharp criticism by many of the country's best-informed observers. Joseph and Stewart Alsop, writing about the world strategic situation and the H-bomb, say, "what the President has said [about the bomb] is not one third, or one tenth, of what it is his bounden duty to say." Hanson Baldwin, in the *New York Times*, writes: "facts are the foundation of democracy—and facts we do not have." Physicist J.R. Oppenheimer, in a recent television interview, pointed out that wisdom and truth cannot flourish without the give-and-take of debate and criticism, and added that "the facts [about atomic energy] are of little use to an enemy, yet they are fundamental to an understanding of the issue of policy."
>
> The extent of public information about atomic weapons must of course be limited. It cannot and should not include a knowledge of facts that could conceivably be of

> use to an enemy. It should, but—for reasons of specious security—does not at present include all the facts that are useless to an enemy or known to him.

The article ended with a plea not usual for editors at *Time-Life*:

> It must be assumed that the approximate size of the U.S. stockpile of bombs is no secret. Nevertheless this information, so vitally necessary to the making of policy, is denied to the people who are finally responsible for determining what policy shall be: the citizens of the U.S. and their elected representatives.
>
> There is no possible justification for this kind of overextended secrecy. Enlightened members of the federal government know this, and they have fought its growth. Two years ago David Lilienthal, then chairman of the Atomic Energy Commission, warned the American people of the harmful effects that such phony security might have: "There is a growing tendency in some quarters to act as if atomic energy were none of the people's business. . . . In my opinion this is plain nonsense, and dangerous nonsense—dangerous to cherished American institutions and for that reason dangerous to genuine national security. . . . If schemers or fools or rascals or hysterical stuffed shirts get this thing out of [the people's] hands, it may then be too late to find out what it is all about."
>
> The restriction of public knowledge Lilienthal feared is being brought about. So stifling are the effects of all-encompassing security that conscientious publications are unwilling to take the responsibility for presenting conclusions which they themselves could draw from the available, nonsecret literature. The government can and should take that responsibility—now, before it is too late.

But it *was* too late. For a complex of reasons. The most important being that the United States now had reason to fear for its security. Pearl Harbor had seemed devastating, but it represented an external threat which soon passed. Now there appeared an *internal* threat in the form of American Communists serving as agents of the Soviet Union.

Fear of radical revolutionists had gotten out of hand in 1919-20. There was a good deal of disorder and no small amount of government misconduct. Let us say in extenuation that a world war, followed by what for awhile seemed the onset of world revolution, required a fair amount of adjusting. A measure of balance returned, in part, surely owing to the "isolationist" bent that appeared in national politics in reaction to Wilsonian activism. Just as importantly, the legal profession began to brush up on the Bill of Rights. On May 28, 1920, twelve of the nation's most respected lawyers and legal scholars, including Harvard Law School Dean Roscoe Pound, Harvard law professors Felix Frankfurter and Zechariah Chafee, Jr., and Francis Fisher Kane, former U.S. Attorney for the Eastern District of Pennsylvania (who had resigned on January 12, 1920 to protest the January 2 "Palmer Raids"), issued a 67-page booklet entitled *Report upon the Illegal Practices of the United States Department of Justice*. The booklet, which has been termed "the most authoritative denunciation of the anti-Red activities of the Justice Department yet made," documented abuses of the Constitution, in particular the Fourth, Fifth and Eighth Amendments, that had been taking place at the behest of the Justice Department.[98]

Nothing like the Palmer Raids of 1919 and 1920 would happen again in the United States. The Sacco-Vanzetti trial, again involving anarchists, would take place in 1921, but it was a *trial*, not a

raid. Following the Second World War, we would go through much torment over Communism and Communist subversion. There was a good deal of public alarm, and a good deal of histrionics, but there were few of the excesses of this earlier period. No president since has sent a rival candidate to prison.

On the other hand, there was to be no return to normalcy.

In 1943, the Army Signal Intelligence Service (later the Army Security Agency) began intercepting Soviet intelligence traffic sent mainly from New York City—assigning the code name VENONA to the project. By 1945, some 200,000 messages had been transcribed, a measure of Soviet activity. As recorded earlier, on December 20, 1946, Meredith Gardner made the first break into the VENONA code, revealing the existence of Soviet espionage at Los Alamos. Steadily, the facts accumulated and identities could be established. In January 1949, the British Government was informed that the VENONA intercepts showed that atomic secrets were being passed to the Soviets from the British Embassy in Washington in 1944 and 1945 by an agent code-named HOMER, later identified as Donald MacLean. In the summer of 1948, Army Security Agency cipher clerk William Weisband passed on information about the VENONA project to the Soviets. This was discovered in 1950. (Weisband also served as a Russian translator, and therefore was working closely with those attempting to decrypt the intercepts.)

Now we entered a period of rising tension. Trials arising from charges of espionage, notably those of Alger Hiss for perjury, were taking place in rapid succession. In Great Britain Klaus Fuchs confessed in January 1950 that he had been a Soviet agent at Los Alamos. On February 9, 1950, in a speech at Wheeling, West Virginia, Senator Joseph McCarthy announced he was in possession of a list of 205 Communists serving in the Department of State. In time, he would accuse George C. Marshall of treason, as described below. In June 1950, the FBI identified Julius Rosenberg as the agent coded named "ANTENNA/LIBERAL" in the VENONA decrypts. Julius and Ethel Rosenberg and Morton Sobell were later tried and convicted, on March 29, 1951, of conspiracy to commit espionage by transmitting atomic secrets to the Soviets. In May 1951, Donald MacLean, along with Guy Burgess, defected to Moscow.

But for every accusation there was a denial. For as many who were willing to believe Whittaker Chambers, there appeared to be a corresponding number convinced of Hiss's innocence. For all who could agree there were Communists in government, there were as many who saw the Government as contriving fantastic accusations against innocent persons.

A balanced history of this period is now beginning to appear; the VENONA messages will surely supply a great cache of facts to bring the matter to some closure. But at the time, the American Government, much less the American public, was confronted with possibilities and charges, at once baffling and terrifying.

The first fact is that a significant Communist conspiracy *was* in place in Washington, New York, and Los Angeles, but in the main those involved systematically denied their involvement. This was the mode of Communist conspiracy the world over. George Kennan would write in his memoirs:

> The penetration of the American governmental services by members or agents (conscious or otherwise) of the American Communist Party in the late 1930s was not a figment of the imagination . . . it really existed; and it assumed proportions which, while never overwhelming, were also not trivial. (*Memoirs 1950-1963.*)

The second fact is that many of those who came to prominence denouncing Communist conspiracy, accusing suspected Communists and "comsymps," clearly knew little or nothing of such matters. And in many instances, just as clearly were not in the least concerned. Hence, the character of the accusers lent credibility to the accused!

There was a political subtext to much of the debate, which only muddled matters more. Often those who were telling the truth about Soviet espionage were discredited or discounted as readily as those who knew little or nothing, but who would accuse others of anything. The ridicule could be devastating, as with the ditty, "Who's going to investigate the man who investigates the man who investigates me?" A fault line appeared in American society that contributed to more than one political crisis in the years that followed, long after President Dwight D. Eisenhower, much in the manner of President Harding, calmed things down.

A compelling question is why the United States Government never let the American public know what *it* knew. By 1950, at least some in the Government were aware that our VENONA "secret" had been compromised. The Soviets knew that we knew, or could surmise. It was the American public that did not know. (It was not until 1986 that the existence of the VENONA project first was made public in a book by the FBI's liaison to the project, Robert Lamphere,[99] and only just now that substantive information is being released.)

It is not even clear how widely the VENONA revelations were shared *within* the United States Government. Thus, a Soviet cable of March 30, 1945 identified an agent, code-name ALES, as having attended the Yalta Conference of February 1945. He had then journeyed to Moscow where, according to the cable, he and his colleagues were "awarded Soviet decorations." This could only be Alger Hiss, Deputy Director of the State Department's Office of Special Political Affairs; the other three State Department officials in the delegation from Yalta to Moscow are beyond suspicion.[100] The party was met by Andrei Vyshinsky, the prosecutor in the Moscow trials of 1936-38. By no later than June 1950, the U.S. Army was persuaded that ALES *was* Hiss.

But . . . did the State Department know of this VENONA message? Did the White House? As noted in Chapter 1, apparently not. What seems increasingly clear is that the entire VENONA project was kept secret from Harry S Truman and his Attorney General, Tom Clark.[101]

Not the least astounding revelations of the VENONA intercepts is that a fair number of Americans who almost certainly were atomic spies were never prosecuted. To do so the Government would have had to reveal what it knew. Secrets are not readily shared. For that matter, Weisband, who passed on to the Soviets that we were breaking their code, was never prosecuted for this crime.

TOP SECRET VENONA

MGB

From: WASHINGTON

To: MOSCOW

No: 1822

30 March 1945

Further to our telegram No. 263[a]. As a result of "[D. A.'s]"[i] chat with "ALES"[ii] the following has been ascertained:

1. ALES has been working with the NEIGHBORS[SOSEDI][iii] continuously since 1935.

2. For some years past he has been the leader of a small group of the NEIGHBORS' probationers[STAZHERY], for the most part consisting of his relations.

3. The group and ALES himself work on obtaining military information only. Materials on the "BANK"[iv] allegedly interest the NEIGHBORS very little and he does not produce them regularly.

4. All the last few years ALES has been working with "POL'"[v] who also meets other members of the group occasionally.

5. Recently ALES and his whole group were awarded Soviet decorations.

6. After the YaLTA Conference, when he had gone on to MOSCOW, a Soviet personage in a very responsible position (ALES gave to understand that it was Comrade VYSHINSKIJ) allegedly got in touch with ALES and at the behest of the Military NEIGHBORS passed on to him their gratitude and so on.

No. 431 VADIM[vi]

Notes: [a] Not available.

Comments:

[i] A.: "A." seems the most likely garble here although "A." has not been confirmed elsewhere in the WASHINGTON traffic.

[ii] ALES: Probably Alger HISS.

[iii] SOSEDI: Members of another Soviet Intelligence organization, here probably the GRU.

[iv] BANK: The U.S. State Department.

[v] POL': i.e. "PAUL," unidentified cover-name.

[vi] VADIM: Anatolij Borisovich GROMOV, MGB resident in WASHINGTON.

7. The Cold War

The Cold War, as it has been called, began almost immediately after the end of the Second World War, and is probably best understood as the third in a succession of "civil wars" within Western Civilization that commenced in 1914.

The encounter began in Central Europe, just as had the two earlier conflicts, with the Soviets pressing to expand their dominion in the wreckage of previous regimes. In 1949 Communists triumphed in a civil war in China, and instantly the conflict was global.

With the National Security Act of 1947 the United States had brought its armed forces under unified direction, established a National Security Council "to advise the President with respect to the integration of domestic, foreign and military policies relating to the national security," and also created a Central Intelligence Agency to provide "national intelligence" to the President and agency heads that was to be "timely, objective, independent of political considerations, and based upon all sources available to the intelligence community."[102] In time the CIA's mission would expand to include para-military operations.

The legislation can be seen as one feature of a more general rationalization and modernization that was occurring within American Government at this time. It was a recognition that the United States had become the preeminent world power and would be managing conflict, and very likely engaged in warfare, *around* the world for an indefinite future. A vast peacetime military establishment began to take shape. (After instant demobilization in 1946!) To respond to the threat in Europe, recognizing that if the Soviets were to invade western Germany the United States would inevitably be involved in the aftermath, we chose to become engaged in advance, helping to shape the North Atlantic Treaty. For the first time in history, we entered a peacetime alliance committing us to war if others were attacked.

In 1955 the Soviets organized the Warsaw Pact and the symmetry was complete. Central Powers vs. Allied Powers, Axis Powers vs. Allied Powers, Warsaw Pact vs. North Atlantic Treaty Organization.

The extraordinary fact of the final stage of this Hundred Years' War is that warfare never broke out between the major contesting powers. Proxy conflicts of all sorts did occur. United States forces saw action. Still, this time, global confrontation did not result in global war.

The reason, of course, was the atomic bomb, and the strategic thinking that commenced with the onset of the atomic age. It is for others to say, but surely American strategic doctrine, with the key concept of "second strike" as the key to nuclear stability, achieved just that. But beyond strictly nuclear affairs it is perhaps not too early to suggest that American statecraft—and yes, that of the Soviets also—had evolved. Things had been learned; no party ever reached irrevocably too far.

In the meantime, however, ideological conflict raged, as did efforts to gain strategic or tactical advantage through espionage or subversion. In most of these events we observe the uniformity formulated by the political scientist James Q. Wilson. Organizations in conflict become like one another. Both parties organized alliances, built strategic forces and conventional forces, cultivated

dissent among adversaries, as much as possible denied them information, and built up intelligence forces of unprecedented size, scope, and global reach. It could be said that the Cold War brought two innovations to the armamentarium of the great powers: strategic nuclear forces and intelligence services.

We have seen that the Soviet attack in the area of intelligence commenced just after the First World War, and was hugely successful during the Second World War. The Soviets even infiltrated the Office of Strategic Services (OSS), established in June 1942. It would, for example, appear from the VENONA messages that Duncan Chaplin Lee, Special Assistant to OSS Director William J. Donovan, was a Soviet agent.

Lee, of the Lee family of Virginia, was a 1935 graduate of Yale University. He then spent three years as a Rhodes Scholar at Oxford—dangerous years—returning to Yale for law school. Thereafter he joined Donovan's law firm in New York, and in July 1942 joined the OSS. He appears regularly in the KGB cables that began to be intercepted in 1943, and thereafter were decrypted by those involved in the VENONA project.

The complicity of Alger Hiss of the State Department seems settled. As does that of Harry Dexter White of the Treasury Department. White, the closest advisor to Secretary Henry J. Morgenthau and later Assistant Secretary, headed the American delegation to the Bretton Woods Conference of 1944, which shaped postwar financial institutions such as the World Bank and the International Monetary Fund.

And so to an irony that only now begins to emerge. It would appear that by the onset of the Cold War the Soviet attack in the area of espionage and subversion had been blunted and turned back. There would be episodic successes in the years to come, but none equal to earlier feats. New York of the 1930s. Los Alamos. Some unions. The State Department. The Treasury Department. By the close of the 1940s, Communism was a defeated ideology in the United States, with its influence in steep and steady decline, and the KGB reduced to recruiting thieves as spies.

At this distance it is difficult to conceive the intensity of Communist conviction in the 1930s. In the 1940s the critic Robert Warshow would write in *Commentary* magazine:

> For most American intellectuals, the Communist movement of the 1930s was a crucial experience. In Europe, where the movement was at once more serious and more popular, it was still only one current in intellectual life; the Communists could never completely set the tone of thinking. . . . But in this country there was a time when virtually all intellectual vitality was derived in one way or another from the Communist party. If you were not somewhere within the party's wide orbit, then you were likely to be in the opposition, which meant that much of your thought and energy had to be devoted to maintaining yourself in opposition.[103]

But with the defeat of Nazi Germany, it became easier to accept the reality of Soviet totalitarianism. The worldwide economic crisis of the 1930s passed. An increasing number of American Communists openly broke with the Party—as, for example, Louis Francis Budenz, managing editor of the *Daily Worker*. In 1946, Budenz broke with the Communist Party and commenced to publicly identify Party members—much as Chambers, Bentley, and others would do in Congressional testimony beginning in 1948. None of this took place without controversy, but the charges held up well enough; in the main they would seem to have been true.

Enter the Federal Bureau of Investigation. By the Second World War it had begun to deal with espionage, in that case of the Axis powers. In November 1945 Elizabeth Bentley informed the FBI of her activities as a Soviet courier, which in turn led to renewed interest in Chambers. In late August or early September 1947, the FBI was informed that the Army Security Agency had begun to break into Soviet espionage messages. The FBI proceeded to identify the cover names used in the Soviet dispatches. Thus, Theodore A. Hall, a 19-year old Harvard physicist at Los Alamos in 1944, was code named "MLAD," Russian for "youngster." By 1950, the FBI, working with the Army, knew Hall to be the "MLAD" identified in the VENONA messages.

In 1936 the FBI began infiltrating the Communist Party itself, typically using disillusioned Party members as agents.[104] In short order, the Party itself was useless as a source of Soviet recruits. Very likely the Soviets came to realize this early on and began looking elsewhere for spies. The period of organized effort—more or less based in an American political party—to infiltrate the American Government in the interests of a foreign nation ended almost as abruptly as it had begun.

This "Brief Account" has attempted to search out uniformities in America's encounter with foreign espionage and domestic treason that began early in the 20th century. One pattern is that of learning. We have remarked that NATO arose from the United States' understanding that it was no longer possible to stay out of a major European conflict. Might once have been; was no more. That realization was central to the avoidance of the "world wars" of the first two phases of the Hundred Years' War.

Now we encounter further examples of what could legitimately be called learning. Faced with the facts of espionage and treason, this time the American Government did not lose its head. The Communist Party of the United States of America *was there*. Its leaders and many of its members were guilty of all manner of misfeasance and violence. The incitement to hysteria was considerable indeed. Palmer Raids, internment camps, deportations, ethnic demonizing (anti-Semitism not least), a general shredding of civil rights—all those were possible during the Cold War. Each had forebears. Virtually none actually happened.

This may appear a provocative judgment. By the late 1940s there was a great agitation in the land about Communists and "comsymps." As early as January 1947 the U.S. Chamber of Commerce warned of infiltration in a publication *Communists Within the Government: The Facts and the Program* (not all the facts within which were wrong). Next came Congressional investigations, notably those associated with Senator Joseph R. McCarthy. Careers were damaged, of this there is no doubt. But compared to the earlier outrages, the society, notably the Government, responded with comparative restraint. Again, there were casualties, but compared to the provocation. . .?

In 1948 former Vice President Henry A. Wallace, now a presidential candidate, announced that he would name Harry Dexter White as his Secretary of the Treasury. (White died of a heart attack before the election and one week after denying any espionage activities before the House Un-American Activities Committee.) Wallace lost the election; President Truman did not send him to prison.

The more singular fact of the fairly rapid discovery of Communist espionage and Soviet agents in the United States is the relatively muted response of the United States Government. For every spy, every traitor tried for espionage, there would be another left untroubled and untried. In March 1949, Judith Coplon, a 27-year old official of the Justice Department, was arrested and

charged with theft and distribution of secret Department documents and with conspiracy. Her convictions in two separate prosecutions were overturned on procedural grounds, but the effort had been made. (And one could assume that Coplon was of no further use, and her trial put others on notice.)

Then the following year, it was discovered that William Weisband, cipher clerk and translator, had informed the Soviets of the existence of the VENONA project. The Soviets now knew that we were "reading their mail." We knew that they knew. They could not know just how many messages, or which messages had been decoded, but we could not know how much they did know. And so into the house of mirrors. *But, as noted, Weisband was not prosecuted for espionage*. (He was sentenced to a year in jail for failing to respond to a subpoena, but the Government's knowledge of his treason apparently was not revealed until its publication in a 1990 book co-authored by a high-level KGB defector).[105]

A more striking contrast can be seen in the treatment of atomic spies. As noted, in January 1950, in the United Kingdom, Klaus Fuchs confessed to espionage while part of the British team at Los Alamos; his activities had turned up in the VENONA files. He implicated Harry Gold as his courier. Gold in turn implicated David Greenglass, who implicated his brother-in-law Julius Rosenberg, formerly of the Army Security Agency. The Rosenberg prosecution, including that of Julius' wife Ethel, now commenced.

But at this time our attention again is drawn to 19-year old Theodore A. Hall. As noted earlier, by 1950 both the Army and the FBI knew that Hall was the "MLAD" referenced in several VENONA messages. It is hard to know with certainty exactly what happened next; most of the FBI files remain classified. It appears that Hall denied any illegal activity during questioning by the FBI. In any event, even assuming that a court case could have been built against Hall, the Government was evidently unwilling to pursue one if it would have meant revealing the existence of the VENONA project.

Espionage can present profound dilemmas as regards prosecution. In this period, anything told to a jury would be learned by the KGB, at a time when large issues turned on preventing the KGB from knowing what we knew. This dilemma was doubly so when dealing with an Allied government. In October 1949, the British spy Kim Philby arrived in Washington as British intelligence liaison to the U.S. intelligence community. Part of his responsibilities involved receiving VENONA material which the U.S. was providing to the U.K. In April 1951, a decoded VENONA message showed that Donald MacLean, who had served as Second Secretary at the British Embassy in Washington in 1944 and 1945 (and returned in 1947 to work on atomic energy issues), was "HOMER," a Soviet spy. Surveillance of MacLean commenced in order to obtain evidence independent of VENONA, as the U.S. and U.K. did not want to reveal publicly the existence of the project, but MacLean defected to Moscow with Guy Burgess in May 1951. Albeit the U.S. Government knew that Weisband had passed on this information more than two years earlier!

What we observe here is "tradecraft" of a high order, but also a fairly routine example of organizational behavior. Secrets are assets to an organization. It is rare for secrets to be shared with another organization, save as exchange. It is difficult at this distance to establish just how widely the VENONA project, for example, was known within the American Government. Sharing with British intelligence was one thing; we may assume the British gave something in return. But could the White House? Not necessarily. The State Department? Almost assuredly not.

Very well, what about the newly created Central Intelligence Agency? New, yes, but, again, by common understanding successor to the Office of Strategic Services.[106] How many associates might Duncan Chaplin Lee have had? Of these how many might have made the transition to the successor organization? Was it worth the risk? Evidently not. As best as these events can be reconstructed, it would appear that the Army took a good long look before it decided it could trust the Central Intelligence Agency with secrets about Soviet espionage.

The Army may be assumed to have another problem in sharing its secrets. It is entirely reasonable to conjecture that at this time in the United States a good many persons just would not have believed them anyway. Part of this was plain innocence. As remarked, most Americans had no encounter with Communists or Communism. Further, this was manifestly the case with many of the more prominent anti-Communists of the time. There was a cultural conflict: anti-Communists were perceived by some as elitists protecting bastions of corrupt privilege, and by others as vulgarians hurling groundless accusations. It is well also to keep in mind that the United States Army itself was under attack. Most notably, as when Senator McCarthy accused George C. Marshall of treason.[107]

Just as the period of a serious Communist "attack" ended precipitously in the late 1940s, so did the period of domestic agitation and alarm. The Rosenbergs were executed in Sing Sing Prison on June 19, 1953. There was a harsh injustice here. Ethel Rosenberg was an accomplice, not a principal. Still, the Government had not asked for a death sentence; a Federal judge took it on his own to impose it.

By now, Dwight D. Eisenhower had been elected President; somewhat in parallel with the succession of Harding, a kind of normalcy returned to government. In December 1954, Senator McCarthy was censured by the Senate and matters settled down.

Looking back, however, we see more clearly the dilemma of secrecy in Government. By 1950, when it was learned that Weisband had revealed the existence of the VENONA project to the Soviets, the United States Government possessed information which the American public desperately needed to know: proof that there had been a serious attack on American security by the Soviet Union, with considerable assistance from what was, indeed, an "enemy within." The fact that we knew this was now known to, or sufficiently surmised by, the Soviet authorities. Only the American public was denied this information.

The circumstances were surely extenuating. The Government knew some parts of the story: what did it not know? If innocent persons were being harassed and worse by a political mob—and many were—so might equally innocent persons be devastated by the release of government information that incriminated a good many persons, not all of whom were guilty, and for certain not found guilty by a jury?

Anyone knowledgeable of the Communist *apparat* could have predicted that the Government "secrets" would be attacked as spurious and contrived. The dilemma was awful, save that none of the principals involved seems ever to have doubted the wisdom of withholding the secrets. Much remains classified to this day. The Soviet Union has ceased to exist, but some of the divisions in the American polity from that encounter remain, and the new revelations brought a measure of recognition still very much needed.

8. A Culture of Secrecy

The Cold War settled in: a winter of many discontents. American society in peacetime began to experience wartime regulation. A good example would be the "fallout shelters," located and identified in urban settings across the nation, preparing the civilian population for the explosion of a nuclear weapon of the sort that had by then become quite obsolete in nuclear arsenals. Cabinet officers routinely went through evacuation exercises to shelters some miles distant from Washington. Schoolchildren learned to duck under desks. If this seems hapless, it may be asked what else civilian authorities were supposed to do? The facts of nuclear weapons and the probabilities of nuclear war were official secrets altogether withheld from the public.

As for the enemy within, by 1950 or thereabouts, the Communist Party was completely neutralized. In outward appearance it still existed, but, as much as anything, merely as a device maintained by the U.S. Government to trap the unwary. Lest they fall to the enemy.

This was the awful dilemma of the Cold War. To preserve an open society it was deemed necessary to take measures that in significant ways closed it down. A culture of secrecy evolved. There were two components, by now familiar ones: the enemy abroad, the enemy within. In both cases the United States Government over-responded; in neither can it be overly blamed. The Soviet Union was by now developing nuclear and missile capacity very much on its own, allowing for contributions from former German scientists. (A resource both sides shared.) It is not clear that espionage yielded any significant gains after Los Alamos. The Soviets continued a large-scale espionage offensive, but there were no major successes. A fairly steady yield of random information; nothing of coherent consequence.

Indeed, the terms of trade, if that image may be used concerning the "product," had quite reversed since the 1940s. It was the Soviets who were now forced to deal with an "enemy within." Marxism was a belief system which could evoke intense attachment. Of a sudden it failed. Judgments vary, but it is probably the case that Mikhail A. Suslov, who served as a member of the Politburo, almost continuously, from 1952 until he died in 1982,[108] was the last member of the Politburo to have studied Marx and Lenin and adhered to their world view.

Now came bureaucracy, disillusion, dissent, defectors. Most conspicuously, in 1967, Joseph Stalin's daughter Svetlana fled the U.S.S.R. This reached the highest levels. In 1975, as an example, Arkady N. Shevchenko, Under Secretary-General for Political and Security Council Affairs of the United Nations, a Soviet diplomat on the short list of possible successors to Foreign Minister Andrei A. Gromyko, defected to the United States and remained under cover for some years before Moscow sensed that something was wrong, evidently narrowing the suspects to Shevchenko, Oleg Troyanovsky, Ambassador to the United Nations, or Anatoly Dobrynin, the Soviet Ambassador in Washington. By now no one was beyond suspicion.[109]

But first, the United States had to live through the aftermath of the Soviet espionage that had crested at Los Alamos. Several laws were enacted, the most important of which was the Atomic Energy Act of 1946. In August 1945, the U.S. Government had released a history of the Manhattan Project, entitled *A General Account of the Development of Methods of Using Atomic Energy for Military Purposes Under the Auspices of the United States Government, 1940-1945*, commonly known as the Smyth Report (for the Princeton University physics professor who

had been asked by General Leslie R. Groves, head of the Manhattan Project, to write the report). The Smyth Report said that most of the information on the development of the atomic bomb could be obtained from unclassified sources, but nothing would do. The Atomic Energy Act introduced the principle that certain information was "born classified," meaning no action need be taken in order for that information to be deemed secret.

This was by now a pattern of governance, and indeed, remains so. Government regulation expanded greatly in scope with the New Deal, as the Roosevelt administration responded to the crisis of the economic depression. During the 1930s, opponents of Roosevelt's New Deal programs grew increasingly concerned about the scope of Executive Branch discretion. For example, in 1938 Roscoe Pound, Chairman of the American Bar Association's Special Committee on Administrative Law and former Dean of Harvard Law School, denounced the trend of turning "the administration of justice over to administrative absolutism . . . a Marxian idea." In response to the growing criticism, as well as to calls for greater openness in government as a means for assuring fairness in proceedings,[110] President Roosevelt in 1939 asked Attorney General Homer Cummings to organize a committee to study existing administrative procedures and make recommendations for reform.

The Attorney General's Committee on Administrative Procedure, chaired by Dean Acheson, submitted a final report in 1941. Following the War, its efforts, coupled with extensive hearings in the Senate Judiciary Committee, resulted in enactment of the Administrative Procedure Act (APA) of 1946, which is premised on the idea that agencies should be required to keep the public informed of their organization, procedures, and rules; the public should be able to participate in the rulemaking process; there should be uniform standards for formal rulemaking and adjudicatory proceedings; and judicial review should be available in appropriate circumstances. Taken together with the Freedom of Information Act (FOIA)—an amendment to the Administrative Procedure Act which was enacted in 1966 and strengthened in 1974, 1986, and again last year—its ultimate intent was to foster more open government through various procedural requirements and by doing so to promote greater accountability in decisionmaking.

As enacted, the APA recognized few exceptions to the standard of crafting a more open government, but an important one was set out in Section 3 of the 1946 statute: "(1) any function of the United States requiring secrecy in the public interest." (This provision later was to be modified as part of the FOIA.) Then Attorney General Tom Clark interpreted this exception to the APA's public information provision in his 1947 "Manual on the Administrative Procedure Act," as follows:

> This would include the confidential operations of any agency, such as the confidential operations of the Federal Bureau of Investigation and the Secret Service and, in general, those aspects of any agency's law enforcement procedures the disclosure of which would reduce the utility of such procedures. . . . It should be noted that the exception is made only to the extent that the function requires secrecy in the public interest. Such a determination must be made by the agency concerned. To the extent that the function does not require such secrecy, the publication requirements apply. Thus, the War Department obviously is not required to publish confidential matters of military organization and operation, but it would be required to publish the organization and procedure applicable to the ordinary civil functions of the Corps of Engineers.

By its terms, the APA's procedural requirements for both rulemaking and adjudication do not apply "to the extent that there is involved a military or foreign affairs function of the United States." This very broad "walling off" in 1946 of the military and foreign affairs areas was consistent with the language of the U.S. Supreme Court ten years before in the seminal case of *United States v. Curtiss-Wright Export Corp.*, where the Court supported a sweeping range of Executive Branch discretion in the conduct of foreign affairs:

> In this vast external realm, with its important, complicated, delicate and manifold problems, the President alone has the power to speak or listen as the representative of the nation. . . . The nature of transactions with foreign nations, moreover, requires caution and unity of design, and their success frequently depends on secrecy and dispatch . . . . He has his agents in the form of diplomats, consular and other officials. Secrecy in respect of information gathered by them may be highly necessary, and the premature disclosure of it productive of harmful results. . . ."[111]

As one scholar has noted, the dichotomy between domestic regulation and foreign affairs functions could not have been clearer. "Even in 1936, during the only era in which delegation of authority in the domestic area was being found unconstitutional, the Court was prepared, in most generous terms, to grant the Executive great latitude in foreign affairs."[112]

The encounter with espionage, some of it involving U.S. Government employees, even military personnel, led inevitably to the matter of loyalty. Years of civil service reform had been designed to remove party affiliation, as the term was, from considerations of government employment. In 1939, however, the Hatch Act prohibited Federal employees from "membership in any political party or organization which advocates the overthrow of our constitutional form of government in the United States."[113]

In March 1948, the celebrated Attorney General's List was first promulgated. Some 71 organizations and eleven schools which were viewed as "adjuncts of the Communist Party" were listed as in some way "subversive," although no effort was made to define just what that might be. The regulation, duly published in the *Federal Register*, was at pains to state that "it is entirely possible that many persons belonging to such organizations may be loyal to the United States. . . ." As will be seen below, the striking aspect of the listing is the prominence of Japanese and German organizations, some years now after the end of the Second World War. Some of the listings seem doubtful. Sakura Kai—veterans of the Russo-Japanese War? The Dante Alighieri Society? For that matter, the Ku Klux Klan. But also, well-established Communist-front organizations.

From proscribing organizations as subversive, it was a short step to querying government employees as to membership. In 1947, President Truman, by executive order, directed that Federal employment be denied where "there is a reasonable doubt as to the loyalty of the person involved."

President Truman's Executive Order, and President Eisenhower's Order that followed three years later and remains the cornerstone of today's personnel security system, can only be understood in their historical context. Although, as described above, Woodrow Wilson's Executive Order of April 7, 1917 had introduced the concept of "loyalty" as a condition of government service for the first time, the Hatch Act had marked the first statutory initiative in this regard. (Previously, under the Pendleton Act of 1883 and the Lloyd-LaFollette Act of 1912, civil service investigations had

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TITLE 3—THE PRESIDENT

EXECUTIVE ORDER 9926

CREATING AN EMERGENCY BOARD TO INVESTIGATE A DISPUTE BETWEEN THE TERMINAL RAILROAD ASSOCIATION OF ST. LOUIS AND CERTAIN OF ITS EMPLOYEES

WHEREAS a dispute exists between the Terminal Railroad Association of St. Louis, a carrier, and certain of its employees represented by the Brotherhood of Locomotive Engineers, the Brotherhood of Locomotive Firemen and Enginemen and the Brotherhood of Railroad Trainmen, labor organizations; and

WHEREAS this dispute has not heretofore been adjusted under the provisions of the Railway Labor Act, as amended; and

WHEREAS this dispute, in the judgment of the National Mediation Board, threatens substantially to interrupt interstate commerce to a degree such as to deprive a large portion of the country of essential transportation service;

NOW, THEREFORE, by virtue of the authority vested in me by section 10 of the Railway Labor Act, as amended (45 U. S. C. 160), I hereby create a board of three members, to be appointed by me, to investigate said dispute. No member of the said board shall be pecuniarily or otherwise interested in any organization of railway employees or any carrier.

The board shall report its findings to the President with respect to the said dispute within thirty days from the date of this order.

As provided by section 10 of the Railway Labor Act, as amended, from this date and for thirty days after the board has made its report to the President, no change, except by agreement, shall be made by the Terminal Railroad Association of St. Louis or its employees in the conditions out of which the said dispute arose.

HARRY S. TRUMAN

THE WHITE HOUSE,

March 18, 1948.

[P. R. Doc. 48-2573, Filed, Mar. 19, 1948; 10:07 a. m.]

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter II—The Loyalty Review Board

PART 210—THE OPERATIONS OF THE LOYALTY REVIEW BOARD

PART 230—DIRECTIVES TO THE DEPARTMENTS AND AGENCIES: CASES OF INCUMBENT AND EXCEPTED EMPLOYEES

PART 239—DIRECTIVES TO THE REGIONAL LOYALTY BOARDS: CASES OF APPLICANTS AND APPOINTEES IN THE COMPETITIVE SERVICE

MISCELLANEOUS AMENDMENTS

1. Section 210.11 (b) (8) is amended by the addition of the following sentence at the end of the first undesignated paragraph thereto: "The organizations so designated by the Attorney General are listed in Appendix A to this part."

2. Appendix A to Part 210 is hereby issued as follows:

APPENDIX A—LIST OF ORGANIZATIONS DESIGNATED BY THE ATTORNEY GENERAL PURSUANT TO EXECUTIVE ORDER NO. 9835

After the issuance of Executive Order No. 9835 by the President, the Department of Justice compiled all available data with respect to the type of organization to be dealt with under that order. The investigative reports of the Federal Bureau of Investigation concerning such organizations were correlated. Memoranda on each such organization were prepared by attorneys of the Department. The list of organizations contained herein has been certified to the Board by the Attorney General on the basis of recommendations of attorneys of the Department as reviewed by the Solicitor General, the Assistant Attorneys General, and the Assistant Solicitor General, and subsequent careful study of all by the Attorney General.

In connection with the designation of these organizations, the Attorney General has pointed out, as the President had done previously, that it is entirely possible that many persons belonging to such organizations may be loyal to the United States; that membership in, affiliation with, or sympathetic association with, any organization designated is simply one piece of evidence which may or may not be helpful in arriving at a conclusion as to the action which is to be taken in a particular case. "Guilt by association" has never been one of the principles of our American jurisprudence. We must be satisfied that reasonable grounds exist for con-

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cluding that an individual is disloyal. That must be the guide.

The organizations named herein do not represent a complete or final compilation. For example, a number of small and local organizations are not listed. As to many organizations not named, the presently available information is insufficient to warrant a final determination as to their character. Others, presently innocuous, may become the victims of dangerous infiltrating forces and, as a consequence, become proper subjects for designation. New organizations may come into existence whose purposes and activities are in conflict with loyalty to the United States. From time to time, therefore, as contemplated and directed by the Executive order, there will be furnished to the Board the names of organizations and groups as to which the information received by the Department of Justice, resulting from continued investigation, indicates similar designations are required.

The names of the organizations listed below were transmitted by the Attorney General to the Loyalty Review Board on November 26, 1947, and the Loyalty Review Board disseminated such information to all departments and agencies on December 4, 1947. The first group is reported as having been previously named as subversive by the Department of Justice and as having been previously disseminated among the Government agencies for use in connection with consideration of employee loyalty under Executive Order No 9835, issued February 21, 1947, entitled "Establishing the Interdepartmental Committee to Consider Cases of Subversive Activity on the Part of Federal Employees," and under other relevant authority. Such list included the following organizations:

American League Against War and Fascism.

American Patriots, Inc.

American Peace Mobilization.

American Youth Congress.

Association of German Nationals (Reichsdeutsche Vereinigung).

Black Dragon Society.

Central Japanese Association (Beikoku Chuo Nipponjin Kai).

Central Japanese Association of Southern California.

The Central Organization of the German-American National Alliance (Deutsche-Amerikanische Einheitsfront).

Communist Party of U. S. A.

Congress of American Revolutionary Writers.

Dai Nippon Butoku Kai (Military Virtue Society of Japan or Military Art Society of Japan).

Dante Alighieri Society.

Federation of Italian War Veterans in the U. S. A., Inc. (Associazione Nazionale Combattenti Italiani. Federazione degli Stati Uniti d' America).

Friends of the New Germany (Freunde des Neuen Deutschlands).

German-American Bund (Amerikadeutscher Volksbund).

German-American Vocational League (Deutsche - Amerikanische Berufsgemeinschaft).

Hinomaru Kai, also known as Nokubi Heiki Giyushu Kai, Zaibei Nihonjin, Heiyaku Gimusha Kai, and Zaibei Heimusha Kai (Japanese Serving in America Military Conscripts Association).

Hinode Kai (Imperial Japanese Reservists).

Hinomaru Kai (Rising Sun Flag Society—a group of Japanese War Veterans).

Hokubei Eaigo Shoko Dan (North American Reserve Officers Association).

Japanese Association of America.

Japanese Overseas Central Society (Kaigai Doho Chuo Kai).

Japanese Overseas Convention, Tokyo, Japan, 1940.

Japanese Protective Association (Recruiting Organization).

Jikyoku Iin Kai (Current Affairs Association).

Kibei Seinen Kai (Association of U. S. Citizens of Japanese Ancestry who have returned to America after studying in Japan).

Kyffhauser, also known as Kyffhauser League (Kyffhauser Bund), Kyffhauser Fellowship (Kyffhauser Kameradschaft).

Kyffhauser War Relief (Kyffhauser Kriegshilfswerk).

Lictor Society (Italian Black Shirts).

Mario Morgantini Circle.

Michigan Federation for Constitutional Liberties.

Nanka Teikoku Gunyoden (Imperial Military Friends Group of Southern California War Veterans).

National Committee for the Defense of Political Prisoners.

National Federation for Constitutional Liberties.

National Negro Congress.

Nichibei Kogyo Kaisha (The Great Fuji Theatre).

Northwest Japanese Association.

Protestant War Veterans of the U. S., Inc.

Sakura Kai (Patriotic Society, or Cherry Association—composed of veterans of Russo-Japanese War).

Shinto Temples.

Silver Shirt Legion of America.

Sokoku Kai (Fatherland Society).

Suiko Sha (Reserve Officers Association, Los Angeles).

Washington Book Shop Association.

Washington Committee for Democratic Action.

Workers Alliance.

Under Part III, section 3, of Executive Order No. 9835, the following additional organizations are designated.

American Polish Labor Council.

American Youth for Democracy.

Armenian Progressive League of America.

Civil Rights Congress and its affiliated organizations, including: Civil Rights Congress for Texas. Veterans Against Discrimination of Civil Rights Congress of New York.

The Columbians.

Communist Party, U. S. A., formerly Communist Political Association, and its affiliates and committees, including: Citizens Committee of the Upper West Side (New York City). Committee to Aid the Fighting South. Dennis Defense Committee. Labor Research Association, Inc. Southern Negro Youth Congress. United May Day Committee. United Negro and Allied Veterans of America.

Connecticut State Youth Conference.

Council on African Affairs.

Hollywood Writers Mobilization for Defense.

Hungarian-American Council for Democracy.

International Workers Order, including People's Radio Foundation, Inc.

Joint Anti-Fascist Refugee Committee.

Ku Klux Klan.

Macedonian-American People's League.

National Committee to Win the Peace.

National Council of American-Soviet Friendship.

Nature Friends of America (since 1931).

New Committee for Publications.

Photo League (New York City).

Proletarian Party of America.

Revolutionary Workers League.

Socialist Workers Party, including American Committee for European Workers Relief.

Veterans of the Abraham Lincoln Brigade.

Workers Party, including socialist Youth League.

Attention is also directed to certain organizations which are operated as schools. While the Attorney General is not of the view that any institution of learning, devoted to the advancement of knowledge, is subversive, it appears that these organizations are adjuncts of the Communist Party. They are as follows:

Abraham Lincoln School, Chicago, Ill.

George Washington Carver School, New York City.

Jefferson School of Social Science, New York City.

Ohio School of Social Sciences.

Philadelphia School of Social Science and Art.

Samuel Adams School, Boston, Mass.

School of Jewish Studies, New York City.

Seattle Labor School, Seattle, Wash.

Tom Paine School of Social Science, Philadelphia, Pa.

Tom Paine School of Westchester, New York.

Walt Whitman School of Social Science, Newark, N. J.

3. Section 220.2 (a) is amended by the addition of the following sentence at the end of the paragraph: "Activities and associations which may be considered in connection with the determination of disloyalty are listed in § 210.11 (b) of this chapter."

4. Section 220.2 (a) is amended by the addition of the following sentence at the end of the paragraph: "Activities and associations which may be considered in connection with the determination of disloyalty are listed in § 210.11 (b) of this chapter."

(E. O. 9835, March 21, 1947, 12 F. R. 1935)

THE LOYALTY REVIEW BOARD,
UNITED STATES CIVIL SERVICE COMMISSION,
SETH W. RICHARDSON,
Chairman.

[F. R. Doc. 48-2427; Filed, Mar. 19, 1948; 8:54 a. m.]

focused on issues of general character for government employment.[114] The Federal Government's employment policies centered on the need to maintain a trustworthy and efficient civil service—based on the core principle of "suitability" for Federal employment, defined in the 1883 statute as "a requirement or requirements for government employment having reference to a person's character, reputation, trustworthiness, and fitness as related to the efficiency of the service."[115] Today, all government employees still must meet a standard of "suitability" that tracks the original 1883 definition; those requiring access to national security information must also be found to be "security eligible" as defined in the Eisenhower Order 10450—an additional requirement that has led to a fair amount of duplication and delay.)

The Hatch Act in turn was implemented through Civil Service Commission regulations in 1940 that were modified in 1942 to read: "Do you advocate or have you ever advocated, or are you now or have you ever been a member of any organization that advocates the overthrow of the Government of the United States by force or violence?"[116] In 1942, President Roosevelt also issued War Service Regulation II, which denied a civil service examination or appointment to anyone whose loyalty was in "reasonable doubt." This was used by the Civil Service Commission to deny Federal employment to a wide variety of individuals, ranging from members of the Communist Party to those associated with the German Bund and other alleged Fascist causes. Other wartime regulations gave the Secretaries of War and the Navy the authority to summarily remove employees considered risks to national security; after the War, this authority was extended to the Department of State and other departments. And in 1944, the Civil Service Commission established a Loyalty Rating Board to handle cases referred by regional Commission offices involving "derogatory information" concerning loyalty issues.

Even so, during World War II the standards and procedures in conducting a loyalty program still were not uniform across the Government; the development of such a program throughout the Executive Branch was left to the Truman administration following the War.[117] In March 1947 President Truman issued Executive Order 9835, establishing the Federal Employee Loyalty Program, providing uniform investigation standards and procedures, and authorizing the creation of Loyalty Review Boards across the Government. Despite the wartime regulations, "personnel security" still largely was a new discipline. The Atomic Energy Act of 1946 had mandated a security program for the newly-established Atomic Energy Commission and had directed the FBI to investigate and report on an individual's "character, associations, and loyalty," and in 1950 Congress had empowered certain agency heads to suspend employees summarily as security risks. Nevertheless, most Federal agencies still did not subject their employees to any formal system of security screening. Lt. Gen. Leslie R. Groves, who had served in the U.S. Army for 32 years and had directed the Los Alamos Project, put it succinctly when he testified in the spring of 1954 before the AEC board reviewing the suspension of Robert Oppenheimer's security clearance: "The Army as a whole didn't deal with matters of security until after the atomic bomb burst on the world because it was the first time that the Army really knew there was such a thing." A combination of the Bomb's impact and the growing fears about Communist and related threats to internal security led to a new "demi-jurisprudence" of security clearance procedures.[118]

The Truman Order—based on the findings of an interdepartmental committee established in 1946—made "loyalty" a concern across the Federal Government. The approach generally proved popular, though a cross-section of legal scholars and other academics did criticize the lack of procedural safeguards and the lack of clear standards for making decisions concerning prospective and current government employees. (For example, several Harvard law professors, including Zechariah Chafee, Jr., who had spoken out against Attorney General Palmer nearly three decades

before, and Erwin Griswold published a critique of the Order in April 1947 under the heading "The Loyalty Order—Procedure Termed Inadequate and Defects Pointed Out.")[119]

The Truman Order in turn was superseded by President Eisenhower's issuance of Executive Order 10450 in April, 1953, which provided that "[t]he appointment of each civilian officer or employee in any department or agency of the Government shall be made subject to an investigation," and made each agency head responsible for ensuring that "the employment and retention in employment of any civilian officer or employee within the department or agency is clearly consistent with the interests of the national security."[120] While abolishing the loyalty program of the Truman Order (including the Loyalty Review Boards within the Civil Service Commission), which had been criticized as both ineffective and inefficient,[121] the new Order also made clear that "the interests of national security require that all persons privileged to be employed in the departments and agencies of the Government, shall be reliable, trustworthy, of good conduct and character, *and of complete and unswerving loyalty* to the United States."[122] (Emphasis added.)

In this manner, a broader "security" program—subsuming loyalty as one key criterion—was established across the Government. The political pressure to establish a broader program had increased with the passage of legislation in 1950 "[t]o protect the national security of the United States by permitting the summary suspension of employment of civilian officers and employees of various departments and agencies. . . ."[123] In addition, beginning in March 1948, the Attorney General's List was published on a regular basis—with members of organizations included on such a list to be denied employment in the Federal government or defense industries as well as the right to a U.S. passport. During the 1952 presidential campaign, Dwight Eisenhower promised to root out Communists and other security risks from government and defense industry employment—suggesting that their presence had been tolerated too easily by the Truman administration despite the existence of rules to address "loyalty" concerns. Then, on February 2, 1953, in his first State of the Union address, President Eisenhower promised a new system "for keeping out the disloyal and the dangerous." Executive Order 10450 followed within three months. Senator Joseph McCarthy (who attended the signing ceremony at the invitation of the administration) praised the new Order: "Altogether, it represents a pretty darn good program. I like it."[124] The *New York Times* reported the following day: "The new [personnel security] program will require a new investigation of many thousands of employees previously investigated, as well as many more thousands who have had no security check."[125]

Concerns about personnel security heightened further in the months that followed issuance of the Order. In early November 1953, Attorney General Herbert Brownell would allege in a speech that President Truman had nominated a Soviet spy—senior Treasury Department official Harry Dexter White—to serve as the U.S. Executive Director of the International Monetary Fund, despite what Brownell said was the President's awareness of White's involvement in Soviet espionage. And on December 3, 1953, President Eisenhower directed that a "blank wall be placed between Dr. [J. Robert] Oppenheimer and secret data"—marking the beginning of the process that led to the Atomic Energy Commission's suspension of Oppenheimer's security clearance later in December and its 4-to-1 decision on June 28, 1954, against restoring the clearance.

Thus, the personnel security system that remains in place to this day (notwithstanding a fair amount of tinkering to ensure greater due process protections and the like) developed against the background of these deep concerns about loyalty and ideological associations. In 1956, Edward Shils captured the essence of the system:

> The present system is centered around the assumption that spies are recruited from among those who feel an ideological kinship with the Soviet Union and from those who can be blackmailed or personally influenced or who by loose or careless talk disclose the secrets which have been entrusted to them.[126]

Below, we return to the issue of whether a system founded on such an assumption still is a sensible structure as we approach a new millennium.

The concept of loyalty necessarily involved the notion of secrecy. Disloyal employees revealed secrets; loyal employees would not. In such a setting apprehension rose, and so did the dimension of secrecy. More and more matters became classified. In about the timeframe that concern was raised by public regulations involving, in the main, domestic activities, there now appeared a concern about this newest form of regulation, classified secrets concerning foreign affairs.

There is, indeed, a considerable symmetry. Roscoe Pound and Erwin Griswold of Harvard took to the law review journals around 1935. Twenty years later, two equally distinguished constitutionalists, Senators John C. Stennis of Mississippi and Hubert H. Humphrey of Minnesota, on January 18, 1955, introduced S. J. Res. 21, an Act to establish the Commission on Government Security (which became Public Law 304, 84th Congress). In a floor statement, Senator Humphrey described the intent of the measure:

> Our present total Government mechanism for assuring security does not inspire confidence. Not since 1917, when the Espionage Act was under consideration by the Congress, has there been full-dress consideration by the Congress of the problems of protecting national secrets, and national defense generally, against subversive penetration.
>
> Nor is there any indication that the Executive branch has ever devoted itself to consideration of the total security problem. In the past, such action as has been taken in the name of security has been more a random, sporadic response to peril, rather than a carefully considered plan for defense against peril.[127]

After discussing particular problems in the administration of the personnel security system, the Senator continued:

> We have done many things in the name of security during the past decade; indeed, as a practical matter, our present security system is a phenomenon of only the past decade. We have enacted espionage laws and tightened existing laws; we have required investigation and clearance of millions of our citizens; we have classified information and locked it in safes behind locked doors, in locked and guarded buildings, within fenced and heavily guarded reservations. But each of these actions has been taken sporadically and independently and not as part of a rational overall master plan for security.
>
> ****
>
> President Truman's Executive Order [Executive Order 10290], and the more recent one by President Eisenhower [Executive Order 10501], bring considerable

> coordination and order out of the preexisting confusion, but there remains much that must be done before we can be sure our system makes sense and is truly effective. We still have multiple standards, some purely administrative and some statutory. I think a heavy burden of proof must rest upon those who would tell us that a single, uniform standard would not better serve the cause of security.
>
> I wish to emphasize that the variable standards which are now applicable in the several agencies and departments of the Government defy the mind of man when it comes to bringing about any conformity, any uniformity, or any reasonable degree of fair application in a particular security case as it may go from one department to another.
>
> ****
>
> We have not paused in our necessary, though frantic, quest for security to ask ourselves:
>
> > What are we trying to protect, and against what?
> >
> > What can we effectively protect?
> >
> > What specific measures will give us the degree of protection we want or need?
> >
> > What price are we willing to pay for security?[128]

Having cited the duplication and contradiction among the "complex of Government security statutes, regulations, and procedures," the Senator then noted how limited Congressional involvement had been:

> To the extent Congress has legislated at all in this area, it has been primarily concerned with the problems of espionage and unauthorized disclosure of national defense secrets. The basic statute is the Espionage Act of 1917. We have amended this statute a number of times to tighten it in the light of current needs, but we have never really studied it to make sure that a statute written in 1917 to reflect the political, military, and technological problems of that era is adequate in the era of hydrogen bombs, radar, and guided missiles, and the world's most infamous conspiracy, the international Communist conspiracy, which surely is not comparable in its ramifications, its subtleties, and its treachery, to some of the old tyrannies of years gone by.[129]

We encounter here (even in the Congress!) the bureaucratic desire for uniformity and predictability—"each of these actions has been taken sporadically and independently and not as part of a rational overall master plan"—but also and equally a concern for civil liberties, a fear of too much government with too few restraints. Loyd Wright, former President of the American Bar Association, was named Chairman of the Commission, with Senator Stennis as Vice Chairman, and they were in equally distinguished company. The spirit of the time may be seen from President Eisenhower's appointments, which included luminaries such as Franklin D. Murphy, then Chancellor of the University of Kansas, and James P. McGranery, who had served as Attorney General

under President Truman. In one of the first passages of the 807-page *Report of the Commission on Government Security*, which appeared in June 1957, the situation and the assignment were set forth with succinct clarity:

> Between 1947 and 1955, there grew up a vast, intricate, confusing and costly complex of temporary, inadequate, uncoordinated programs and measures designed to protect secrets and installations vital to the defense of the Nation against agents of Soviet imperialism. The ceaseless campaign of the Soviet Union and international communism to infiltrate our Government, industry, and other vital areas and to subvert our citizenry for purposes of espionage and sabotage not only was threatening our military and industrial strength but was intended to impair our national economy.
>
> As a result of congressional subcommittee hearings, which thoroughly reviewed and studied all phases of our security and loyalty programs, the Congress unanimously provided in Public Law 304, 84th Congress, as follows:
>
>> Section I. It is vital to the welfare and safety of the United States that there be adequate protection of the national security, including the safeguarding of all national defense secrets and public and private defense installations, against loss or compromise arising from espionage, sabotage, disloyalty, subversive activities, or unauthorized disclosures.
>>
>> It is therefore, the policy of the Congress that there shall exist a sound Government program—
>>
>> (a) establishing procedures for security investigation, evaluation, and, where necessary, adjudication of Government employees, and also appropriate security requirements, with respect to persons privately employed or occupied on work requiring access to national defense secrets or work affording significant opportunity for injury to national security;
>>
>> (b) for vigorous enforcement of effective and realistic security laws and regulations, and
>>
>> (c) for a careful, consistent, and efficient administration of this policy in a manner which will protect the national security and preserve basic American rights.[130]

The Commission accepted without demur "the broad Presidential supervisory and regulatory authority over the internal operations of the executive branch." In a word, no statute was required to maintain secrecy. "The Attorney General's list of proscribed organizations, or something similar to it, is essential. . . ." But the Commission "recommends a number of major changes to minimize possible abuses." This passage is taken from the Commission's Summary of Recommendations, as highlighted below:

Summary of Recommendations

The Commission's recommendations, if put into effect, would enhance the protection afforded national security while substantially increasing the protection of the individual.

The Commission recommends retention, with fundamental revisions, of the programs affecting Federal civilian and military personnel, industrial security, port security, employees of international organizations, the classification of documents, passport regulations, and the control of aliens. In addition, the Commission recommends an entirely new program to safeguard national security in the vital operations of our civil air transport system.

At the core of the Commission's plan for a uniform, comprehensive, and practical security mechanism is its recommendation for a Central Security Office to provide a continuous study of security needs and measures, conduct loyalty and security hearings, and furnish advisory decisions to heads of government departments and agencies.

And at the very basis of the Commission's thinking lies the separation of the loyalty problem from that of suitability and security. All loyalty cases are security cases, but the converse is not true. A man who talks too freely when in his cups, or a pervert who is vulnerable to blackmail, may both be security risks although both may be loyal Americans. The Commission recommends that as far as possible such cases be considered on a basis of suitability to safeguard the individual from an unjust stigma of disloyalty.

****

CENTRAL SECURITY OFFICE—The Commission recommends an independent Central Security Office in the executive branch of the Government. One of the principal deficiencies of past loyalty and security programs has been a shortage of trained, qualified personnel to administer them. Hence, the first duty of the director of the proposed central office would be to select eminently qualified personnel, including hearing examiners to conduct loyalty hearings under the Federal civilian employee program and security hearings under the industrial, atomic energy, port and civil air transport programs.

****

The various loyalty and security programs of the Government would be reviewed and inspected to insure uniformity of rules, regulations and procedures; however, the Central Security Office would not have authority to review secret or other files of any agency.

ATTORNEY GENERAL'S LIST—The Commission believes that the Attorney General's list of proscribed organizations, or something similar to it, is essential to the administration of the Federal loyalty and security programs. While it therefore recommends continuance of the list, the Commission also recommends a number

of major changes to minimize possible abuses. The Commission recommends a statutory basis for the list and that future listings be authorized only after FBI investigation and an opportunity for the organization to be heard by examiners of the Central Security Office, with the right of appeal to the Central Review Board. Decisions of the examiners and the Central Review Board would be advisory to the Attorney General.

****

CONFRONTATION—The Commission recommends that confrontation and cross examination be extended to persons subject to loyalty investigations whenever it can be done without endangering the national security. Those whose livelihood and reputation may be affected by such loyalty investigations are entitled to fair hearings and to decisions which are neither capricious nor arbitrary. It is the prime duty of Government to preserve itself, and in the carrying out of this duty it has the indisputable obligation to avail itself of all information obtainable, including information from confidential sources. Full confrontation, therefore, would be obviously impossible without exposing the Government's counterintelligence operations and personnel with resulting paralysis of the Government's efforts to protect the national security.

****

FEDERAL CIVILIAN EMPLOYEES—The program recommended for civilian Government employees consists of a loyalty program applicable to all positions and a suitability program within the framework of civil service regulations. In the executive branch, the Commission would exclude the Central Intelligence Agency and the National Security Agency from the program.

****

MILITARY PERSONNEL—The Commission recommends that the standard and criteria for separation, for denial of enlistment, induction, appointment or recall to active duty in the Armed Forces, including the Coast Guard, should be that on all the available information there is a reasonable doubt as to loyalty.

****

DOCUMENT CLASSIFICATION—The changes recommended by the Commission in the present program for classification of documents and other material are of major importance. The most important change is that the Confidential classification be abolished. The Commission is convinced that retention of this classification serves no useful purpose which could not be covered by the Top Secret or Secret classification. Since the recommendation is not retroactive, it eliminates the immediate task of declassifying material now classified Confidential. The Commission also recommends abolition of the requirement for a personnel security check for access to documents or material classified Confidential. The danger inherent in such access is not significant and the present clearance requirements afford no real security-clearance check.

The report of the Commission stresses the dangers to national security that arise out of overclassification of information which retards scientific and technological progress, and thus tend to deprive the country of the lead time that results from the free exchange of ideas and information.

ATOMIC ENERGY—The Atomic Energy Commission is an employer of Federal civilian workers and also operates an industrial security program. In general, the Commission's recommendations are designed to bring both AEC's Federal civilian employee and its industrial security programs in line with the comprehensive programs planned for general application throughout the Government.

INDUSTRIAL SECURITY—Uniformity of regulations, of procedures and their application, and of administration appeared as the needed goal of any reform of the present industrial security program. Therefore, the Commission recommends the establishment of a Central Security Office in the executive branch of the Government, as previously noted. With this arrangement, the hazards of consolidation of all industrial security programs into a single agency are avoided, but the benefits of a unified program will be available by means of a monitoring system exercised through such a central office.

To insure uniformity within the armed services with respect to the Department of Defense Industrial Security Programs, the Commission recommends establishment of an Office of Security within the Office of the Secretary of Defense. This office would integrate, control, and supervise the industrial security programs of the three services, thus eliminating duplicate clearances, investigations, fingerprinting and repetitious execution of clearance applicant and related forms, and accomplishing a streamlined administrative pattern eliminating delay resulting from use of chain-of-command communications regarding security matters. Classification guides would be issued by such office, and close scrutiny maintained on the classification of materials contracted for by the services. Downgrading and declassification programs would be monitored from this office, as well as disposition of classified material upon completion of contracts.

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Replacement of the present security standard by a more practical and positively worded one is recommended, namely, that clearance for access to classified material should be denied or revoked if it is determined on the basis of all available information that "access to classified information and materials will endanger the common defense and security." Also, ambiguous criteria relative to associations are omitted in the Commission's recommendation, and the test of refusal to testify at an authorized inquiry has been added.

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PORT SECURITY—**** One of the problems which has arisen in the administration of the security program by the Coast Guard has been the failure to give an applicant for clearance adequate notice of the reasons for a denial of clearance. The Commission recommends that in the future the applicant be given specific

and detailed notice to the extent that the interests of national security permit. The Commission recommends that standards and criteria for clearance in the Coast Guard be uniform with the standards in other major security programs. The Commission also recommends that hearings heretofore conducted by the Coast Guard be the responsibility in the future, of the Central Security Office. Compliance with this recommendation will promote uniformity in standards and procedure throughout the Government.

AIR TRANSPORT SECURITY—The Commission recommendations for a security program in civil air transport recognizes the need for initial Federal action at the industrywide level in this important field. At present, only the employees of CAA, CAB, or other Federal agencies involved in air transport are subject to the formal program, required under Executive Order 10450. The Commission has recommended, however, that only those employees actually in a position to do substantial damage should be included in the program.

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INTERNATIONAL ORGANIZATIONS—The existing loyalty program for United States nationals employed by international organizations should be continued, but the standard should be broadened to include those who are security risks for reasons other than doubtful loyalty. The standard would be whether or not, on all the information, there is reasonable doubt as to the loyalty of the person to the Government of the United States or reasonable ground for believing the person might engage in subversive activities against the United States.

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PASSPORT SECURITY—In the passport field, Congress should enact legislation defining the standards and criteria for a permanent passport security program. The procedures would continue to be defined by regulation.

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IMMIGRATION AND NATIONALITY—The Commission recommends in the field of immigration and nationality that the functions of visa control, except for diplomatic and official visas, be transferred from the Department of State to the Department of Justice and that the Attorney General be authorized by law to maintain personnel abroad to carry out these functions.

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NEW LEGISLATION—Two new substantive laws are recommended.

The first would penalize unlawful disclosures of classified information with knowledge of their classified character by persons outside as well as within the Government. In the past, only disclosures by Government employees have been punishable.

> The second recommended legislation would make admissible in a court of law evidence of subversion obtained by wiretapping by authorized Government investigative agencies. Wiretapping would be permissible only by specific authorization of the Attorney General, and only in investigations of particular crimes affecting the security of the Nation.

Little came of the Commission's thoughtful, exhaustive work. The proposal to outlaw by statute "disclosures of classified information . . . by persons outside as well as within the Government" was quickly perceived, although not necessarily intended, as prior restraint on the press. The response was swift and predictable. The recommendation was criticized strongly in articles and editorials in a variety of newspapers, notably by James Reston. On June 25, 1957, four days after issuance of the Commission Report, Reston wrote an article in the *New York Times* entitled "Security vs. Freedom: An Analysis of the Controversy Stirred By Recommendation to Curb Information." Reston's article is notable for the specificity with which he described the arrangements that were then pretty much in place and which continue so:

> The history of recent years is full of illustrations of the dangers of such broad legislative proposals.
>
> Franklin D. Roosevelt's deal with Joseph Stalin at Yalta to bring the Ukraine and Bylo-Russia into the United Nations was classified "top secret." Elaborate efforts were made to conceal the arrangement. The late Bert Andrews, Washington correspondent of The New York Herald Tribune, found out about it.
>
> He "willfully," even gleefully reported it, knowing full well that it was classified "top secret." Under the proposals of the Commission on Government Security, if law at the time, he would have been subject to a fine of $10,000 and five years in jail.
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>
> This newspaper also published the original plans of the United States, Britain, France and the Soviet Union on the formation of the United Nations. Again, they were marked "top secret" and the Federal Bureau of Investigation was called in to make an official investigation of the disclosure.
>
> In this case, though the Government maintained that publication would block information of the United Nations, the main result was a long debate on the Big Five veto power and the assumption that the five major powers could agree on a post-war settlement. This, in turn, helped clarify the issue and contributed to some modifications of the Charter, but under the legislation now proposed by the Commission on Government Security, it would have been a clear case for criminal action.[131]

(In this latter case, we would note the potential felon would have been Reston himself, who had a friend in the Chinese delegation!)

A certain innocence appears in a separate Statement by Chairman Wright, which is appended to the Commission Report. He asserts:

> The final responsibility for the difficult decisions of what shall be secret must be confided in those loyal and devoted public servants who are qualified to make the judgment. No citizen is entitled to take the law, and the safety of the Nation, into his own hands. With near unanimity, the American journalism profession has conscientiously observed these limits. But there are a few exceptional cases, which for some reason have escaped prosecution. The purveyor of information vital to national security, purloined by devious means, gives aid to our enemies as effectively as the foreign agent.[132]

"The purveyor of information vital to national security, purloined by devious means. . . ." Purloined for good or ill, but predictably, classified information was by now routinely provided to journalists by officials, sometimes to enhance prestige with the press, sometimes to gain advantage in an internal dispute, sometimes to let the public know something the purveyor thought the public had a right to know.

The matter has never been quantified, but it is reasonable to assert that most "leaking" was coming from the higher reaches of the system. We have President John F. Kennedy's testament to the Ship of State as the only ship that leaks from the top! Sparingly, of course. As Max Frankel of the *New York Times* has observed, Presidents soon came to realize that "even harmless secrets were coins of power to be hoarded."[133]

It is beyond the range of an official report to speculate over much on the allure of secrecy, but this must never be discounted. The official with a secret *feels* powerful. And is. Some years after the report of the Commission on Government Security, the Committee on Government Operations of the House of Representatives would declare:

> Secrecy—the first refuge of incompetents—must be at a bare minimum in a democratic society, for a fully informed public is the basis of self-government. Those elected or appointed to positions of executive authority must recognize that government, in a democracy, cannot be wiser than the people.[134]

Which is very likely true, but not of necessity widely believed by those in authority, howsoever briefly.

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The Commission on Government Security was clear-headed enough about the first attempts at press censorship and the hopelessness of it all—given the American press! Thus:

> While document classification as a form of combined censorship and information restriction has been a part of our national policy from the War of the Revolution, formal and pervasive procedures for document classification in the current sense are a comparatively recent development. Prior to World War II, in peacetime there were few formal restrictions on information availability; the major exceptions were the traditional restraints in the diplomatic and military fields. In other areas, information restrictions were based for the most part upon individual judgment, as situations arose.

> The advent of World War I brought the first organized approach to document classification as a means of general restriction on public access to information. Censorship policies for control of published information commenced on March 24, 1917, with the promulgation of regulations by the State, War, and Navy Departments. Newspapers were asked to adhere voluntarily. One of the regulations requested that "no information, reports, or rumors, attributing a policy to the government in any international situation, not authorized by the President or a member of the cabinet, be published without first consulting the Department of State."
>
> On April 13, 1917, by Executive Order 2594, President Wilson created the Committee on Public Information, named George Creel as chairman, and World War I censorship formally got under way. Creel thought that censorship as practiced at that time was unworkable. He described the whole effort as of a piece with "the hysterical 'shush-shushing' that warned against unguarded speech, just as though every citizen possessed some important military secret." He said, at the end of the War, that "virtually everything we asked the press not to print was seen or known by thousands." Creel believed the answer to be "secrecy at the source" through action by the military departments without depending upon press judgment.[135]

Even so, the Commission wandered into the inevitable ambiguity. If secrets matter, they must be kept. To keep secrets is to put in question principles more sacred than secrets.

The Commission's principal legislative proposal, a Central Security Office, might at first have appeared more promising. It fit well with public administration doctrine at this time, a time when the profession of public administration was looked to in such matters. It could well have been proposed by one of the several Hoover Commissions of the post-war period. A parallel to the Civil Service Commission that would establish uniform rules with "trained, qualified personnel to administer them."

But this, too, ran athwart the changed political culture of Washington. *It was turning out that secrets were hard to keep secret*. Organizations with the morale, incentives, and structure to hold things closely were increasingly disinclined to share, especially with organizations that were not. This is perhaps too generous. Secrets had become assets; organizations hoarded them, revealed them sparingly and in return for some consideration, and wanted no part of some Central Office busying itself with their internal affairs. This, of course, is conjecture, but for certain no Central Office emerged.[136]

To the contrary, far from centralizing, the dispersal of secrecy centers within the Government accelerated. The Federal Bureau of Investigation now began operations abroad, a necessary extension of its internal task of keeping abreast of domestic espionage and, from an organizational perspective, an opportunity of considerable import. Hence, "Operation SOLO."

Moishe Chilovsky was born in the Ukraine in 1902 of Jewish parents. His father was engaged in anti-Czarist activities and had been exiled to Siberia. He fled to the United States in 1910, and his family came the following year. As Morris Childs, the son became a charter member of the Communist Party of the United States of America. Following the expulsion of Jay Lovestone (born Jacob Liebstein in 1898 in Lithuania to Russian-Jewish parents), Childs became a Party

official under Earl Browder; in 1929 he was sent to Moscow for further training. In 1934, he became a member of the Central Committee, and in 1945 he succeeded Budenz as managing editor of the *Daily Worker*. In 1947, he returned to Moscow, where he learned of Stalin's persecution of Jews and more generally of the repression there. In the early 1950s, he was "turned" by the FBI. In 1957, he became deputy head of the CPUSA and the primary contact with Soviet, Chinese, and other parties abroad, traveling regularly to Moscow and Peking. He led the U.S. delegation to the 21st Party Congress in Moscow in 1959. Reportedly a source of considerable information about Kremlin politics, and especially of Sino-Soviet tensions, his role as an American spy was kept entirely within the FBI until President Gerald R. Ford was informed in 1974. In 1987, Childs was awarded the National Security Medal by FBI Director Sessions, in a ceremony held *in camera* at FBI headquarters.

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The Wright Commission was not the only evidence of a general stirring during the Eisenhower years over this new question of peacetime secrecy. The Truman administration had begun during the Second World War; had endured the shock of Soviet espionage and nuclear armament, the face of battle in Korea. The new President ended the war in Asia, and the nation settled into a normalcy, not without parallel in the 1950s to the Harding administration thirty years earlier. The new President was not in the least inclined to over much government, much less to intrusive government. Sectors of the citizenry, however, were even less so. The Commission on Government Security noted this:

> Despite the declared purpose of Executive Order 10501, to recognize that ". . . It is essential that the citizens of the United States be informed concerning the activities of their government . . ." and the need that certain ". . . official information affecting the national defense be protected uniformly against unauthorized disclosure . . ." the Order has been subject to continuous and sharp attack. These attacks have been led for the most part by leaders in the press and other information media as well as by numerous individuals in the legal field, and the world of science and scientific research.
>
> In recognition of these attacks during the 84th Congress, the Special Subcommittee on Government Information of the House Committee on Government Operations held lengthy hearings under Congressman Moss to answer these complaints. These hearings and studies were the first major congressional effort to examine the document classification program.[137]

Nor was the Wright Commission the only entity examining government secrecy and the means of classifying information in the mid-1950s. The Eisenhower administration organized its own inquiry when, in August 1956, Secretary of Defense Charles E. Wilson established a five-member Committee on Classified Information, chaired by Charles A. Coolidge, a well-known attorney and a former Assistant Secretary of Defense. (The other four members were retired high-ranking military officers.) In his letter establishing the Committee, Secretary Wilson stated that he was "seriously concerned over the unauthorized disclosure of classified military information"; he called on the Committee to examine the adequacy of all laws and regulations on classification and the safeguarding of classified information, as well as the procedures utilized at the Defense Department in this area and the Department's ability to "fix responsibility" for unauthorized disclosure of classified information.

Three months after being established, the Coolidge Committee issued a report on November 8, 1956, containing 28 recommendations—ten covering overclassification, eleven covering different issues relating to unauthorized disclosures of information; and the remaining seven matters relating to Department policies vis-a-vis Congress, industry, and the press. The first recommendation—based on a finding that Defense Department officials had a tendency to "play it safe" and classify too much—called for "a determined attack" on overclassification, "spearheaded by the responsible heads within the Department of Defense, from the Secretary of Defense down" and another called on senior officials to "throw back over-classified matter received from subordinates." The Committee also urged the Department to make clear that the classification system "is not to be used to protect information not affecting the national security, and specifically prohibits its use for administrative matters." However, the Committee did not propose any penalties or disciplinary action in cases of abuse of classification procedures, and when in July 1957 Secretary Wilson issued a new directive consolidating the rules governing the Department's classification procedures, it did not impose any procedures to address problems in this regard.

In addition to the commissions that were organized to examine the security classification system, in 1955 the House of Representatives created a Special Government Information Subcommittee of its Government Operations Committee. The backdrop to establishment of this Subcommittee was increasing concern on the part of some Members about the growth of postwar secrecy, including the Eisenhower administration's establishment in November 1954 of an Office of Strategic Information in the Commerce Department responsible for formulating policies concerning the production and distribution of "unclassified scientific, technical, industrial, and economic information, the indiscriminate release of which may be inimical to the defense interests of the United States."[138]

In 1953, Representative John E. Moss, a freshman Democrat on the House Post Office and Civil Service Committee, had raised the issue of public access to government information. Representative Moss had sought information from the Eisenhower administration's Civil Service Commission to verify its claim that 2,800 Federal employees had been fired for "security reasons;" he wanted to know whether these "security" reasons were based on allegations of disloyalty or espionage or instead matters that could also be grounds for discharge—such as a misstatement, even unintentionally, on a job application. The Commission refused to release the information and Representative Moss found that he had no other means to compel its release. Two years later, he urged the creation—and subsequently was made Chairman—of the Special Government Information Subcommittee, tasked with monitoring Executive Branch secrecy.

The Moss Subcommittee quickly undertook a lengthy inquiry (spanning the duration of the Coolidge Committee and Wright Commission) concerning the classification system's administration and operation and, more generally, the availability of information from agencies and departments. Among its chief concerns was the lack of any action against overclassification of information:

> In a conflict between the right to know and the need to protect true military secrets from a potential enemy, there can be no valid argument against secrecy. The right to know has suffered, however, in the confusion over the demarcation between secrecy for true security reasons and secrecy for "policy" reasons. The proper imposition of secrecy in some situations is a matter of judgment. Although an official faces disciplinary action for the failure to classify information which should be secret, no instance has been found of an official being disciplined

> for classifying material which should have been made public. The tendency to "play it safe" and use the secrecy stamp has, therefore, been virtually inevitable.[139]

Aside from some attention to declassification of historical documents, however, the Subcommittee's recommendations—including those intended to provide disincentives for overclassification and to establish a security classification system based in statute—were "largely ignored" by the Executive Branch.[140]

The Moss Subcommittee did, however, remain at the forefront of legislative efforts to enhance public access to government information. It assumed the lead role, beginning in the mid-1950s, in focusing increased attention on how the security classification system related to the rights of Congress and the public to obtain information from the Executive Branch. This would lead, after eleven long years, to enactment in 1966 of the FOIA, establishing a statutory right of access by any person to Federal Government records unless the information falls into one of nine listed categories permitting it to be exempted from release.

Representative Moss first succeeded in 1958 in narrowing use of the 1789 "housekeeping" statute to withhold government information. In 1962, he helped persuade President Kennedy to narrow the use of "executive privilege" to deny the release of records. Finally, in 1965 Moss and Representative Donald Rumsfeld introduced legislation to establish a presumption that Executive Branch documents should be available to the public with only narrow exceptions and that judicial review should be available as a check on agency decisions to withhold information. By 1966, bipartisan support for the effort had grown, and it appeared that the issue of public access to information might even arise in the fall Congressional elections. The legislation passed the Senate first, and then the House in June. On July 4, 1966, President Johnson signed the FOIA into law (to go into effect exactly one year later, in order to give the Executive Branch sufficient time to prepare for its implementation).

Notable as that achievement was and remains, it did not much change the practices of the bureaucracy. In 1972, the House Foreign Operations and Government Information Subcommittee, now chaired by Representative William Moorhead of Pennsylvania, concluded after fourteen days of oversight hearings that "[t]he efficient operation of the Freedom of Information Act has been hindered by five years of foot dragging by the Federal bureaucracy." Agency procedures were deficient and employees untrained, large fees were charged to deter requests, responses were long delayed, and the exemption categories were being applied broadly to deny the release of information. So Congress responded again. With Representative Moorhead's leadership, the FOIA was amended substantially in 1974 (passing both chambers overwhelmingly following a Presidential veto) to fix some of these loopholes that the bureaucrats charged with implementing the law had discovered, and to strengthen several provisions of the statute.

Notwithstanding the accomplishments of Representatives Moss and Moorhead and their colleagues, an inevitable tension remains between the right of access prescribed in the FOIA and the authority of the Executive Branch to preserve certain secrets. Thus, the very first exception to the general FOIA principle of public access reads as follows:

> (b) This section does not apply to matters that are—
>
> > (1)(A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national

> defense or foreign policy and (B) are in fact properly classified pursuant to such Executive order . . .[141]

This is not surprising; as noted, such matters had been treated differently in the original Administrative Procedure Act. The difference now was the availability of procedures, including use of the courts, to review bureaucrats' decisions to deny the release of information.[142]

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From the onset of the atomic age there had been a tension between the defense establishment, as generally defined, and the science community over the nature of secrecy in science. From the time of the Smyth Report, and the arguments of Bethe and others as to the inevitability of the Soviets acquiring an H-Bomb, the level of irritation was not inconsiderable. The scientists said you could not hide nature from the Russians.

Now an argument arose about the disutility of trying to hide things from Americans. As noted earlier, the Wright Commission was on to this:

> The report of the Commission stresses the dangers to national security that arise out of overclassification of information which retards scientific and technological progress, and thus tend to deprive the country of the lead time that results from the free exchange of ideas and information.[143]

This aspect of the Wright Commission's report was echoed in a resounding fashion some thirteen years later by another group of eminent persons. In July 1970, a special Task Force on Secrecy, convened by the Defense Science Board and chaired by Dr. Frederick Seitz of Rockefeller University, issued its final report on the steps needed to address problems with the system for classifying scientific and technical information.[144] Responding to questions from the Director of Defense Research and Engineering, the Task Force found first that it was unlikely that classified scientific and technical information would remain secure for as long as five years; more likely it would become known to others in as little as one year through both "independent discovery" and clandestine disclosure.[145] The report went on to focus on the costs of classification, concluding that its effect in inhibiting the flow of information should be considered—and balanced against the benefits—in making classification decisions. After also finding that classifiers' attention should focus mainly on design and production-related matters (such as information on specific manufacturing techniques that might reveal operational plans), as opposed to basic research and "early exploratory" development, the Task Force concluded that, overall, the amount of scientific and technical information classified could be reduced by as much as 90 percent through the exercise of greater care concerning both the scope and duration of classification.

Finally, in its most telling passage, the Seitz Task Force wrote that "more might be gained than lost" if the United States adopted "unilaterally, if necessary—a policy of complete openness in all areas of information." (Recognizing, however, that this proposal was not practical in light of prevailing views on classification, it instead recommended adopting a "rigid schedule" for automatic declassification, with a general period of one to five years, subject to exemptions for specified categories.) That nothing subsequently came of this final recommendation speaks more to the "culture" being confronted by the Seitz Task Force and other such entities than the wisdom of the finding—one endorsed by a cross-section of the nation's leading thinkers on scientific and technology issues.

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The apogee of absurdity as regards secrecy came in 1971 when the Nixon administration undertook to enjoin the publication by the *New York Times* and, subsequently, the *Washington Post*, of a history of the Vietnam War compiled in the Department of Defense, and soon known as the Pentagon Papers. In June 1996, on the occasion of the 25th anniversary of that seminal event, Max Frankel of the *Times* recalled what had transpired:

> Twenty-five years ago today, reporters, editors and owners of The Times stood accused in Federal court of treasonous defiance of the United States. We had begun to publish a 10-part series about the Pentagon Papers, a 7,000-page study of how four Administrations became entrapped in Vietnam—progressively more committed and more frustrated than they dared at every stage to admit to the public. Although the documents were historical and lacking any operational value, they were stamped "Top Secret" and therefore withheld, like trillions of other Government papers, from public, press, Congress and even Executive officials not duly "cleared" into the priesthood of "national security."[146]

As Harold Edgar and Benno C. Schmidt, Jr. state the matter in their comprehensive analysis of the espionage laws in the *Columbia Law Review* (written against the backdrop of the Pentagon Papers litigation), the Government found that there was literally "no law" to prevent publication. The problem, as Edgar and Schmidt make clear in their masterful survey, can be traced to the time of creation—1917—when Woodrow Wilson failed in his efforts to achieve a sweeping ban on publication of defense information. The U.S. espionage laws are, in their words, "in many respects incomprehensible," with the result being that "[w]e have lived since World War I in a state of benign indeterminacy about the rules of law governing defense secrets."[147]

The uncertainties surrounding the legislative intent of the 1917 Act (as well as of its most significant amendment, in 1950)[148] were to have significant consequences more than half a century later. Edgar and Schmidt note that "[n]o prosecution premised on publication has ever been brought under the espionage laws," and that the abandoned prosecution of Daniel Ellsberg and his colleague Anthony Russo for unlawful retention of defense information "was the first effort to apply the espionage statutes to conduct preparatory to publication."[149] As noted, in October 1984, Samuel Loring Morison, a civilian analyst with the office of Naval Intelligence, was arrested for supplying a classified photograph of a Soviet nuclear-powered carrier under construction to *Jane's Defence Weekly*—which subsequently published the photo. In October 1985, Morison became the first person convicted under the 1917 Espionage Act for an unauthorized disclosure of classified defense information to the press. His conviction was upheld in 1988 and the Supreme Court declined to hear the case.

The Morison prosecution remains unique; no other individual has been prosecuted since on such grounds. While the core provisions of the espionage laws have been used with some degree of frequency to prosecute government and defense contractor employees for actual or attempted communication of national defense information to a foreign agent, as well as conspiracies toward that end (thus reaching the conduct of notorious spies such as Aldrich Ames),[150] the laws have proven virtually useless in addressing the more mundane problem of "leaks." And when a body, such as the Wright Commission, has proposed "rectifying" this by broadening the laws' reach beyond the classic case where defense information is provided to foreign spies to also cover unauthorized communications between a government official and the press, it has provoked hostile

reaction based on concerns about the impact on free speech and efforts to publicize government misconduct or mismanagement.

Thus, a system persists in which the series of executive orders—beginning with Truman's—on security classification carefully instruct government employees not to transfer classified information to any outsiders not authorized to receive it (the U.S. media obviously included), but the system of criminal sanctions designed to back that instruction up proves to be a "paper tiger." Indeed, most of the executive orders on national security information issued in succession since 1951 do not even refer to the espionage laws. And, as in the case of the Commission on Government Security's proposal, Congress is not willing to make unauthorized disclosure of classified information an action subject to criminal sanctions without consideration of the *intent* of the communicator. Thus, as a former Assistant General Counsel of the CIA concluded (in an unpublished paper cited by Edgar and Schmidt):

> An individual who simply reveals to the public at large classified data is for all practical purposes immune from prosecution since his defense, of course, would be that he thought the American public had a right to know and the Government would not be able to prove intent to aid a foreign government or to harm the United States. The fact that any reasonable man would know that revelation to the general public ipso facto reveals to foreign governments is immaterial. Even if the one making the exposure is a government employee well versed in the rules governing classified information, there can be no presumption of intent which would bring him within the terms of present espionage laws.[151]

Of course, this was not the only legacy of the Pentagon Papers case. The effort to prosecute journalists for publishing the materials also revealed the deep-seated differences in perspectives concerning the breadth of appropriate classification. Erwin N. Griswold, who had been President Nixon's Solicitor General at the time of the Pentagon Papers case and therefore had the thankless task of preparing and arguing the Government's case before the Supreme Court, summed it up well nearly two decades later:

> I have never seen any trace of a threat to the national security from the publication. Indeed, I have never seen it even suggested that there was such an actual threat. Sen. Gravel's edition is now almost completely forgotten, and I doubt if there is more than a handful of persons who have ever undertaken to examine the Pentagon Papers in any detail—either with respect to national security or with respect to the policies of the country relating to Vietnam.
>
> It quickly becomes apparent to any person who has considerable experience with classified material that there is massive over-classification and that the principal concern of the classifiers is not with national security, but rather with governmental embarrassment of one sort or another. There may be some basis for short-term classification while plans are being made, or negotiations are going on, but apart from details of weapons systems, there is very rarely any real risk to current national security from the publication of facts relating to transactions in the past, even the fairly recent past. This is the lesson of the Pentagon Papers experience, and it may be relevant now.[152]

9. After the Fall

It is just four decades since the Report of the Commission on Government Security, the first and, until now, the only other statutory body to inquire into secrecy and security. The Commission Report was thoughtful and in no sense alarmist. Even so, it would have institutionalized the loyalty system through a Central Security Office, and would have greatly expanded the reach of government by making it a crime under the Espionage Act for persons outside of government—read "journalists"—to disclose classified information. Neither measure was adopted. (A third proposal to "make admissible in a court of law evidence of subversion obtained by wiretapping" was never formally adopted, but gradually and partially became accepted practice.) There have been numerous executive orders of differing degrees of consequence, but all fall within the overall statutory and administrative framework of the arrangements put in place during World War I. This system was designed to deal with conflict between nation states, in which the United States had to deal with internal as well as external conflict.

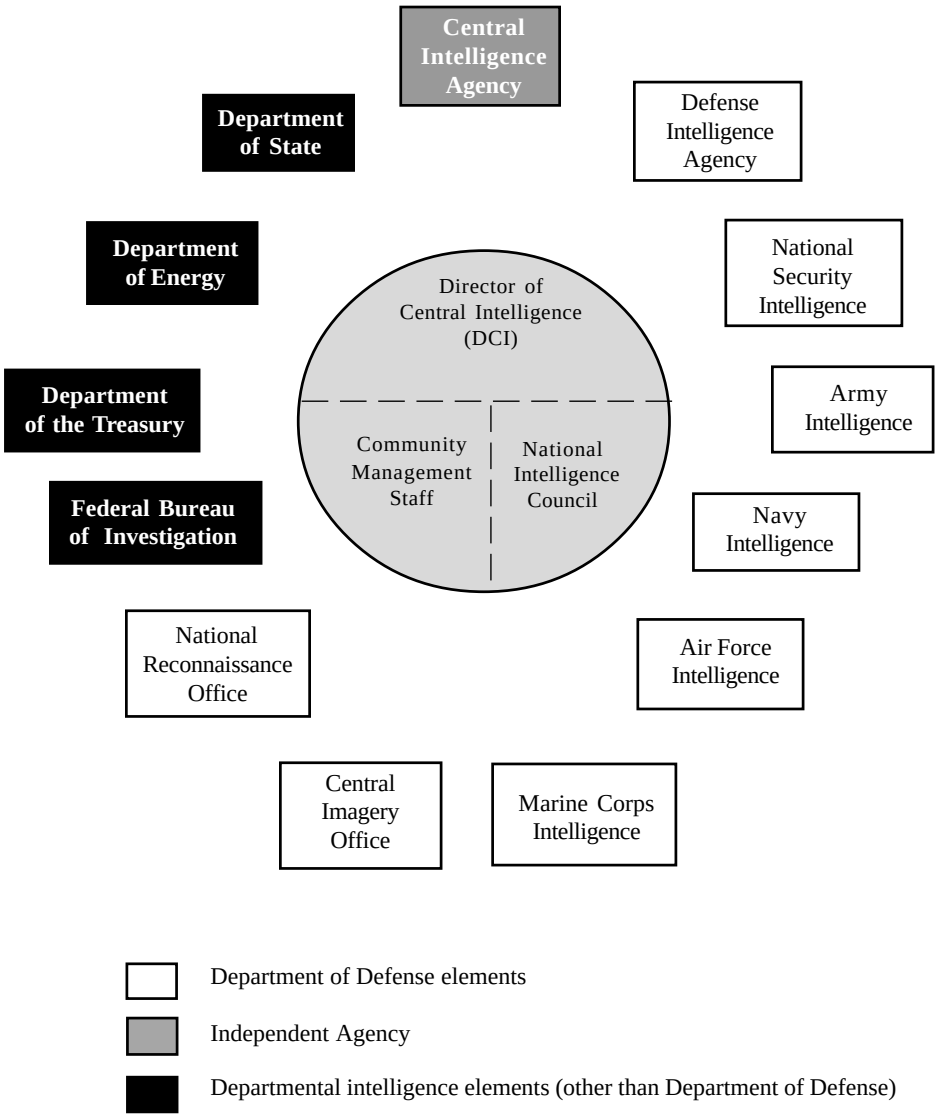
To say that the system has not changed appreciably is not to say that it has not degraded. Most of this degradation can be accounted for by recognizable bureaucratic behavior. First one agency; then another agency; then a third agency. First an activity exclusively directed from within the Executive Branch; next the emergence of equally forceful direction from the Legislative Branch. First a considerable degree of public concern at unfamiliar arrangements and activities, followed by familiarity and gradual acceptance.

In the years immediately following the Second World War, there was a considerable competition among the Defense Department (and its predecessor) and the State Department and the Justice Department (in the form of the Federal Bureau of Investigation) for primacy in directing what would be called "the intelligence community." In this competition the defense community won out, although the FBI remained a significant participant. Again, in the bureaucratic mode, no significant interest was entirely cut out; redundancy became the norm, especially as the extent of redundancy remained more or less undisclosed. Only the State Department lost relative influence and resources.

The secrecy system degraded most significantly in the form of "leaks," that is to say, "unlawful disclosures of classified information," as the *Report of the Commission on Government Security* put it. These occur routinely, typically in the course of contests within the Executive Branch, or between the Executive and the Legislative. It has become routine for high government officials to lament the dissonance brought on by the momentary inability to remember whether some important fact was learned in a highly classified briefing or from evening television. There is, effectively, no sanction for giving "classified information" to the press, as the term is generally understood. To the contrary, there are perceived rewards accruing to those who do so. (Not to mention the memoirs of presidents and cabinet members!)

This "Brief Account" has not attempted to judge either the gains achieved or the losses incurred by the secrecy system that developed over the course of the 20th century. Clearly, there were both. Indisputably, a vast range of contacts with other governments require secrecy while they are relevant. Clearly, covert actions require secrecy while they are relevant. Keeping in mind, however, that by definition others know of these secrets, and not always those we would wish. In a celebrated Cold War gaffe, an American official disclosed the existence, on the territory of a

Figure 1: The Intelligence Community



Source: Council on Foreign Relations Independent Task Force, *Making Intelligence Smarter: The Future of U.S. Intelligence*, 1996, 39.

NATO ally, of a not-inconsiderable "listening post" directed at the Soviet Union. The Soviets knew of this; they could see it. The allied government knew of it; only its citizenry did not.

Clearly, a great deal of information concerning weapons systems also needs to be secret so long as the systems are operational. Finally, and most obviously, military operations need to be kept secret from enemy forces, although by definition they do not remain secret for long. Once Allied forces had landed in Normandy, the opposing German forces knew what was up. In the course of the Cold War, however, the United States increasingly resorted to "covert" actions which, if only partially understood by adversaries, were more or less completely concealed from the American public. Even formal military operations began to be concealed. During the war in Vietnam, North Vietnamese forces in Cambodia were recurrently bombed in 1969 and 1970. Cambodians knew; Vietnamese knew; but the American public was not told until 1973. During this period domestic opposition to American foreign policy attained an intensity never previously known. The incumbent president asked himself whether constitutional government would survive.

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For all the distraction of covert action and military engagement on the periphery of Eurasia and in parts of what would come to be known as the Third World, the central, all-consuming task of statecraft during the Cold War was to establish an effective system of deterrence by which the Soviet Union would be dissuaded from nuclear war. The BIG SECRET of the American Government during the early and middle years of the Cold War was that Soviet economic and military power was advancing at a rate which made deterrence problematic at best. By 1957, a Top Secret Report entitled "Deterrence & Survival in the Nuclear Age," warned of "spectacular progress" on the part of the Soviets in achieving substantial parity in the essentials of military strength, and forecast a "crossover," as the term would be, when the Soviets would have achieved superiority.

The document, known as "The Gaither Report," for H. Rowen Gaither, Jr., then head of the Ford Foundation, was a product of the Security Resources Panel of the President's Science Advisory Committee, this latter body having been created by President Eisenhower to provide independent advice about the state of such matters. The National Security Council requested it, and in the manner of the time, the job was done in six months. Not without cause: the Report was forwarded to the President just weeks after the October 4, 1957, launching of the Soviet Sputnik (for "Fellow Traveler"!). The first artificial Earth satellite. The conclusions were stark to the point of startling:

II. NATURE OF THE THREAT

A. Economic

> The Gross National Product (GNP) of the USSR is now more than one-third that of the United States and is increasing half again as fast. Even if the Russian rate of growth should decline, because of increasing difficulties in management and shortage of raw materials, and should drop by 1980 to half its present rate, its GNP would be more than half of ours as of that date. This growing Russian economic strength is concentrated on the armed forces and on investment in heavy industry, which this year account for the equivalent of roughly $40 billion and $17 billion,

> respectively, in 1955 dollars. Adding these two figures, we get an allocation of $57 billion per annum, which is roughly equal to the combined figure for these two items in our country's current effort. If the USSR continues to expand its military expenditures throughout the next decade, as it has during the 1950's, and ours remains constant, its annual military expenditures may be double ours, even allowing for a gradual improvement of the low living standards of the Russian peoples.
>
> This extraordinary concentration of the Soviet economy on military power and heavy industry, which is permitted, or perhaps forced, by their peculiar political structure, makes available economic resources sufficient to finance both the rapid expansion of their impressive military capability and their politico-economic offensive by which, through diplomacy, propaganda and subversion, they seek to extend the Soviet orbit.

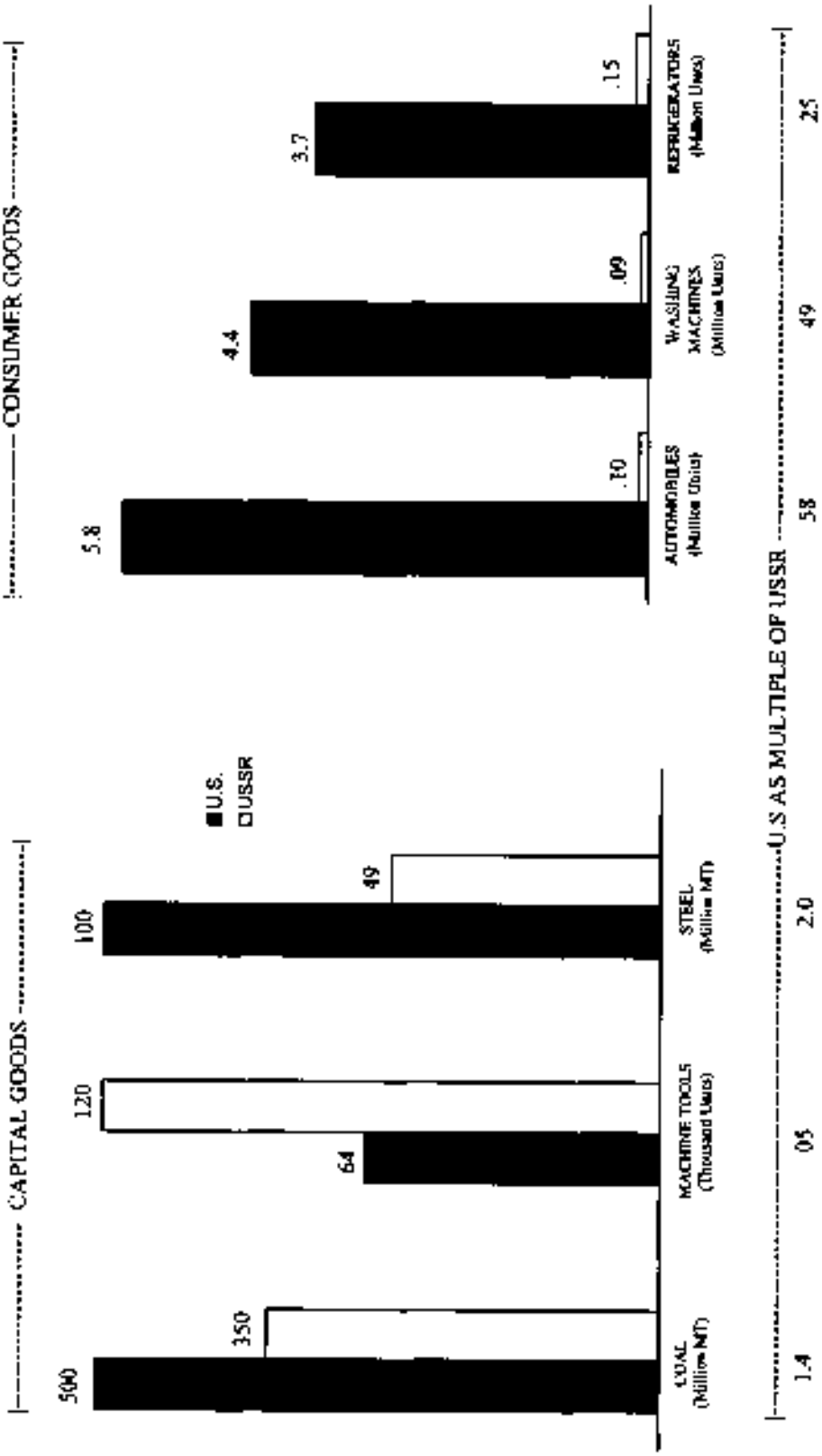
The figures that followed the above analysis (and which are reproduced below) were uncompromising. The first showed the Soviets reaching up towards United States production of coal and steel, and already producing *twice* the number of machine tools. The while the United States frittered away resources on consumer goods such as automobiles, washing machines, and refrigerators. The second showed the Soviet military effort just about to surpass that of the United States.

The assertion that Soviet Gross National Product was growing "half again as fast" as that of the United States was traumatic. In 1956, nominal growth in the United States was 5.5 percent, which would give the Soviets a nominal rate of 8.25 percent. The former rate was in line with the forecasts of the Council of Economic Advisers, which had been estimating long-run real growth of 3.5 percent, with inflation at about 2 percent. And so, the President's Science Advisory Committee informed the President that the "crossover" date would be 1998. By the end of the century, the Soviet Union would have a larger economy than ours, and presumedly vastly greater military strength.[153]

The intelligence community accepted and "improved" the assessment of the Gaither Commission. In May 1958, Allen W. Dulles, Director of Central Intelligence, spoke to the annual meeting of the Chamber of Commerce of the United States on "Dimensions of the International Peril Facing Us." These were seen to be formidable:

> Comparison of the economies of the US and the USSR in terms of total production of goods and services indicates the USSR's rapid progress.
>
> Whereas Soviet gross national product was about 33 percent that of the US in 1950, by 1956 it had increased to about 40 percent, and by 1962 it may be about 50 percent of our own. This means that the Soviet economy has been growing, and is expected to continue to grow through 1962, at a rate roughly twice that of the economy of the United States. Annual growth over-all has been running between six and seven percent, annual growth of industry between 10 and 12 percent.

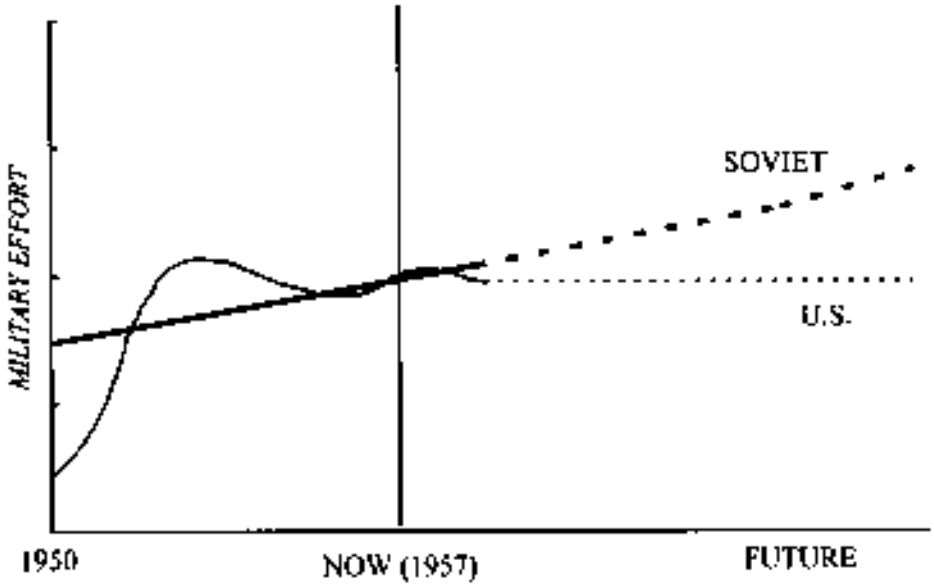
Figure 2
PRODUCTION OF SELECTED CAPITAL & CONSUMER GOODS: 1956



Source: Joint Committee on Defense Production, *Deterrence and Survival in the Nuclear Age (The Gaither Report" of 1957)*, 94th Cong., 2d sess., 1957 (Reprint by the Government Printing Office, Washington, D.C., 1976), 13.

Figure 3

PAST AND PROJECTED RELATIONSHIP BETWEEN U.S. AND U.S.S.R. MILITARY EFFORT



Source: Joint Committee on Defense Production, *Deterrence and Survival in the Nuclear Age (The "Gaither Report" of 1957)*, 94th Cong., 2d sess., 1957 (Reprint by the Government Printing Office, Washington, D.C., 1976), 14.

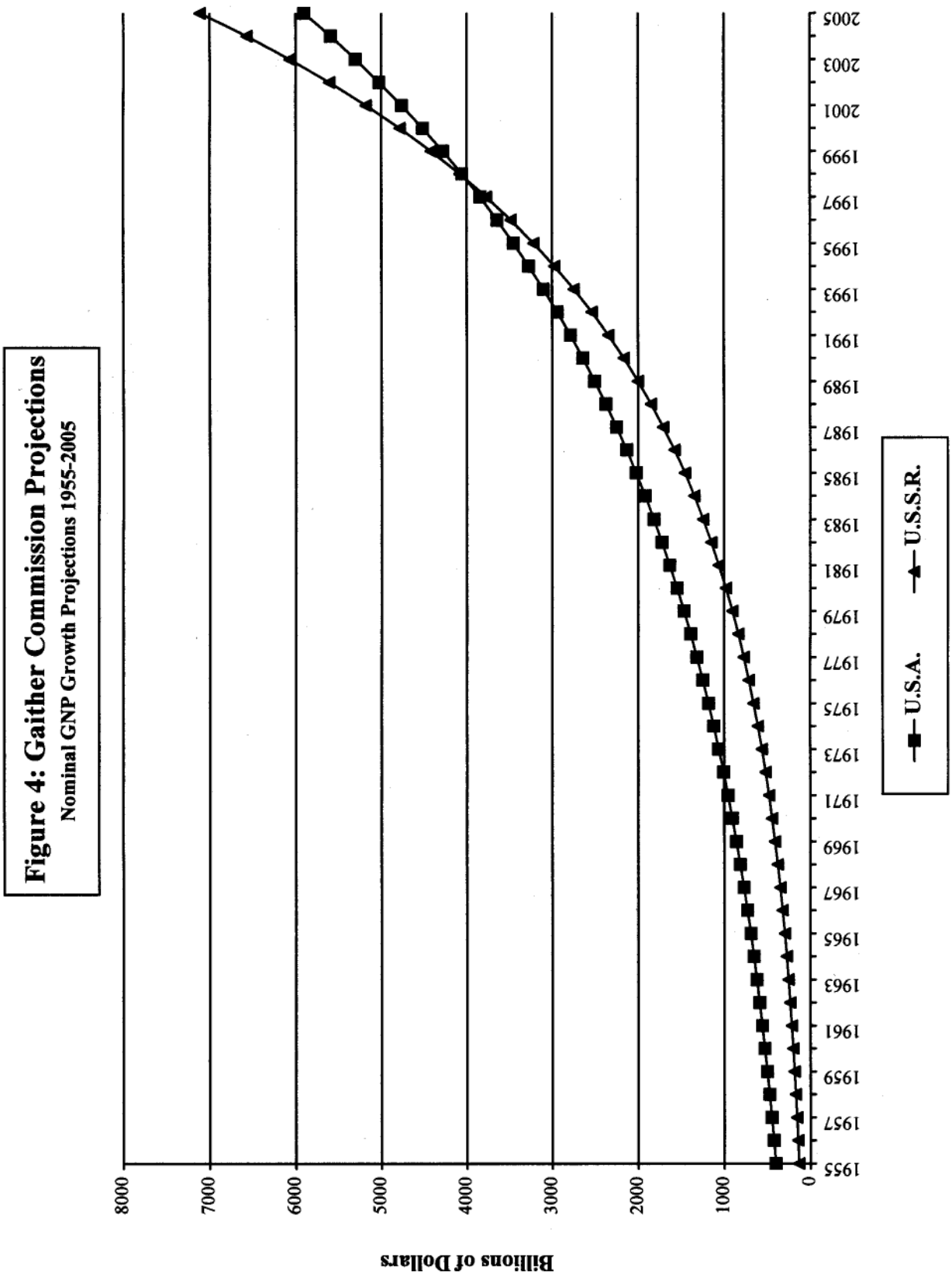


Figure 4: Gaither Commission Projections
Nominal GNP Growth Projections 1955-2005
Billions of Dollars
8000
7000
6000
5000
4000
3000
2000
1000
0
1955
1957
1959
1961
1963
1965
1967
1969
1971
1973
1975
1977
1979
1981
1983
1985
1987
1989
1991
1993
1995
1997
1999
2001
2003
2005
U.S.A.
U.S.S.R.

> These rates of growth are exceedingly high. They have rarely been matched in other states except during limited periods of postwar rebuilding.
>
> A dollar comparison of USSR and US gross national product in 1956 reveals that consumption—or what the Soviet consumer received—was less than half of total production. It was over two-thirds of the total in the U.S. Investment, on the other hand, as a proportion of GNP in the USSR, was significantly higher than in the US. Furthermore, investment funds in the USSR were plowed back primarily into expansion of electric power, the metallurgical base, and into the producer goods industries. In these fields, it was over 80 percent of actual US investment in 1956, and in 1958, will probably exceed our own. Defense expenditures, as a proportion of GNP in the USSR, were significantly higher than in the US; in fact about double.
>
> Soviet industrial production in 1956 was about 40 percent as large as that of the US. However, Soviet heavy industry was proportionately larger than this over-all average, and in some instances the output of specific industries already approached that of the US. Output of coal in the USSR was about 70 percent of that of the US, output of machine tools about double our own and steel output about half.
>
> Since 1956, Soviet output has continued its rapid expansion. In the first quarter of 1958, Soviet industrial production was 11 percent higher than a year ago. In comparison, the Federal Reserve Board index shows a decline of 11 percent in the United States.
>
> According to available statistics, in the first quarter of 1958, the Sino-Soviet Bloc has for the first time surpassed the United States in steel production. The three months figures show that the USSR alone turned out over 75 percent of the steel tonnage of the US.[154]

Note that at a 6 percent growth rate for the U.S.S.R., the "crossover" date would be 1992. At 7 percent, 1983. As best this now distant history can be reconstructed, the Department of State was almost alone in questioning such fantasy. In 1962, the head of the Policy Planning Staff privately demurred that he was not one of those "6 percent forever" persons.[155] Note, also, that the CIA estimate was as public as can be. The statistical and economic bases for the estimate remained secret, and secrecy carried conviction. Presidents believed it.

The Gaither Report remained "Top Secret" until 1973. But, of course, it had leaked well before then. As John Prados records, on November 5, 1957, two days before it was forwarded to the President, the *New York Times* reported that a secret study of the entire scope of national defense was about to be sent to the NSC. Then, on December 20, Chalmers Roberts of the *Washington Post* published a very detailed article in that paper.[156] The "missile gap" now appeared. The Report had been explicit in this matter:

> By 1959, the USSR may be able to launch an attack with ICBMs carrying megaton warheads, against which SAC will be almost completely vulnerable under present programs. By 1961-1962, at our present pace, or considerably earlier if we accelerate, the United States could have a reliable early-warning

> capability against a missile attack, and SAC forces should be on a 7 to 22 minute operational "alert." The next two years seem to us critical. If we fail to act at once, the risk, in our opinion, will be unacceptable.[157]

It is not clear, and probably never will be, whether the panel had access to the U-2 photographs then available, which evidently showed no sign of a massive ICBM build-up. In any event, President Eisenhower did know this, and was disinclined to see a crisis. Probably Senator John F. Kennedy did not know this, and so the "missile gap" entered the vocabulary of the 1960 Presidential election. For certain, the journalists Joseph and Stuart Alsop knew all manner of leading figures within the intelligence community. On August 1, 1958, they wrote:

> At the Pentagon they shudder when they speak of the "gap," which means the years 1960, 1961, 1962, and 1963. They shudder because in these years, the American government will flaccidly permit the Kremlin to gain an almost unchallenged superiority in the nuclear striking power that was once our specialty.[158]

Senator William Proxmire would later record that "Few documents have had as great an influence on American strategic thinking in the modern era. . . ."[159] The missile gap turned out not to exist, but nearly four decades later the United States is still contemplating modes of missile defense. *Civil* defense has pretty much disappeared from policy debates, but the aftermath of a massive scare echoes on and on.

The question must be asked: what was gained by secrecy? Had the Report been made public, as Senator Lyndon B. Johnson requested at the time, might not the economics profession have become more engaged with the subject in an open public debate?

For fifty years, as Bryan Hehir has recently observed, the United States confronted a direct, unambiguous issue: "how to deter a conscious, rational choice to use nuclear weapons against American territory."[160] Given the nature of the issue—a rational choice—a case surely can be made that our deliberations ought to have been much more public, much less "secret." Save for the Smyth Report of 1946, this case was never made. The Bomb created a mystique of secrecy that resisted any disposition to openness.

There was, to be sure, a vigorous public debate about nuclear strategy, principally based in universities and various "think-tanks" that now appeared. But within the Government, decisionmaking proceeded on the basis of tightly held—unless deliberately leaked—classified information and analysis. Of the roughly 100 persons associated with the Gaither Report there were few economists. None of the principals had any particular knowledge of the Soviet system, certainly not enough to add "investment in heavy industry" to outlays on the armed forces to produce an index of Soviet geopolitical strength defined as nuclear strike power. These passages from the Report are a close brush with the demented. What is merely painful is for all those physicists to measure the overall strength of an economy in terms of coal and steel production thirteen years after one of the first computers, the Mark 1 built by Howard Aiken, began operating at Harvard.

Great efforts were made within the Federal Government to get a grasp on the size and direction of the Soviet economy. In the main, the results followed the disposition put in place in the Eisenhower years to see the Soviets as a modern industrial economy growing more so. Here is testimony from Nicholas Eberstadt, presently of the American Enterprise Institute, before the

Senate Committee on Foreign Relations in July 1990, a year before the formal collapse of the Soviet regime:

> MR. EBERSTADT. As I believe you know, I do not specialize exclusively in Soviet economic affairs. I try to follow the economic and social affairs of a broad number of countries, including some with central planning systems, and others in what is sometimes called the Third World. As such, I am an interested user of estimates on trends and levels of Soviet economic output. The most comprehensive and authoritative of these estimates are produced by the U.S. Government, principally under the auspices of the Central Intelligence Agency.
>
> This is a longstanding effort involving many researchers, considerable talent, and enormous financial resources. In fact, I believe it may be safe to say that the U.S. Government's effort to describe the Soviet economy may be the largest single project in the social science research ever undertaken.
>
> ****
>
> How does one evaluate the results of this effort?
>
> There have been many achievements in this effort, some of them extremely interesting and important. We should neither ignore these nor belittle them. What I will focus on this morning, however, are some of the shortcomings of this effort. For, Mr. Chairman, shortcomings and contradictions are evident, even in a fairly cursory assessment of the published research.
>
> I shall outline three broad categories of problems that characterize some of these estimates.
>
> First, there are problems attendant upon using Soviet statistics. Naturally, Soviet statistics form the basic data for the U.S. analysis. But the limitations of these official statistics are well known. Very often the U.S. analysis took these figures at face value, with only minor adjustments. The problems with such credulousness are evident in the latest CIA handbook of economic statistics.
>
> That handbook, for example, suggests that per capita output of milk is today higher in the U.S.S.R. than in the United States, making the Soviet Union not only a nuclear power, but a dairy superpower.
>
> ****
>
> Similarly, these estimates suggest Soviet meat output in the late 1980's to be about the same as in the United States in 1960, during the Eisenhower years. Such an estimate, of course, is totally out of keeping with impressions of Western tourists and of many Soviet citizens.
>
> Now it is widely believed that the Soviet Government routinely hides many of its efforts from outside view. But where, one wonders, are the hidden stockpiles and reserves of Soviet meat?[161]

At the same hearing of the Senate Committee on Foreign Relations, Michael J. Boskin, then-Chairman of the Council of Economic Advisers, estimated that the Soviet economy was "about one-third" the size of the United States.[162] At this time, the official Handbook of Economic Statistics, produced by the intelligence community, put the ratio at 52 percent.[163] Obviously, the lunacy of the earlier projection was no more, but the disposition to exaggerate—not to take the chance of underestimating—was still much in evidence. The United States GDP for 1990 was $4.8 trillion. The intelligence community put Soviet GDP at $2.5 trillion. The President's chief economist made it more like $1.6 trillion. The difference is $900 billion. Which would buy a lot of missiles.

Government secrecy is not to be overblamed here. The CIA's estimates of Soviet GDP had been made public as early as 1959. The essential fact is that economists in general failed to grasp the stagnation that settled on the Soviet economy after a brief post-Second World War spurt in industries beloved of Heroes of Soviet Labor. Dale W. Jorgenson writes that "this has to be one of the great failures of economics—right up there with the inability of economists (along with anyone else) to find a remedy for the Great Depression of the 1930's."[164]

Henry S. Rowen of Stanford, whose distinguished government service included his chairmanship of the National Intelligence Council from 1981-83, has echoed this sentiment; "Sovietologists" both within the intelligence community and in academia, trained to rely on the same general assumptions and data, had engaged in a form of "group-think" that resulted in a monumental failure of analysis. By 1985, he circulated a paper to senior Reagan administration officials outlining his conclusion that actual Soviet economic growth was close to zero; in April 1986, he expressed his views directly to the President and Vice President.[165] Even so, the system failed and the United States paid a price.

By Fall 1991, only a few weeks before the Red Flag would be taken down at the Kremlin (on Christmas Day 1991) for the last time, Stansfield Turner, former Director of Central Intelligence, summed up:

> We should not gloss over the enormity of this failure to forecast the magnitude of the Soviet crisis. We know now that there were many Soviet academics, economists and political thinkers, other than those officially presented to us by the Soviet government, who understood long before 1980 that the Soviet economic system was broken and that it was only a matter of time before someone had to try to repair it, as had Khrushchev. Yet I never heard a suggestion from the CIA, or the intelligence arms of the departments of defense or state, that numerous Soviets recognized a growing, systemic economic problem.
>
> Today we hear some revisionist rumblings that the CIA did in fact see the Soviet collapse emerging after all. If some individual CIA analysts were more prescient than the corporate view, their ideas were filtered out in the bureaucratic process; and it is the corporate view that counts because that is what reaches the president and his advisers. On this one, the corporate view missed by a mile.
>
> Why were so many of us so insensitive to the inevitable?[166]

The answer has to be, at least in part, that too much of the information was secret, not sufficiently open to the critique of the likes of Eberstadt, or the Swedish economist Anders Åslund, who for a

long while described the Soviet Union as "a reasonably well developed Third World country, calling to mind Argentina, Mexico, or Portugal. . . ."[167] Too little attention was paid to ethnic issues. The Soviet Union, after all, broke up along ethnic lines. Finally, *much* too little attention was paid to the decline of Marxist-Leninist belief. It was as if the 1917 Revolution were carried out by the RAND Corporation, intent on more efficient and abundant weapon production.

****

One legacy of a century of real and imagined conspiracy, most of it cloaked in secrecy, is that the American public has acquired a distrust of government almost in proportion to the effort of government to attempt to be worthy of trust. After all, in this "long twilight struggle," men and women of singular qualities devoted much or most or all of their working lives to defending American society against manifest hostility and danger. As time went on, this effort—so much of it secret—seemed less and less rewarded with an appropriate respect. To the contrary.

While, as Richard Hofstadter and others have documented, conspiracy theories have been part of the American experience for two centuries, they would appear to have grown in dimension in recent decades. The best-known and most notorious is, of course, the unwillingness on the part of the vast majority of the American public to accept that President Kennedy was killed by Lee Harvey Oswald (or by another lone gunman). A poll taken in 1966, two years after release of the Warren Commission report concluding that Oswald had acted alone, found that 36 percent of respondents accepted this finding, while 50 percent believed others had been involved in a conspiracy to kill the President (14 percent had no opinion). By 1978, however, only 18 percent responded that they believed the assassination had been the act of one man; fully 75 percent believed there had been a broader plot. The numbers have remained relatively steady since; a 1993 poll also found that three-quarters of those surveyed believed (consistent with a popular film released that year) that there had been a conspiracy.[168]

The public concern with conspiracy has a counterpart in the "understanding," if that is the term, by Washington elites as to the extent to which the CIA and the FBI have established a *dossier* system which routinely intimidated persons in power or aspiring to it. The law that organizations in conflict become like one another may be noted: this was a KGB specialty, as regards Soviet citizens, but with Americans also targeted as opportunities arose. Writing in 1995 of the early years of the CIA, a respected journalist, citing two earlier histories, gave a fair example:

> Allen Dulles had been one of John F. Kennedy's first two appointments after the election. The other was J. Edgar Hoover of the FBI. Both men were "legends," explained Kennedy, better left undisturbed. His deference may have been encouraged by the knowledge that the CIA and FBI had thick files on the president-elect's past, including his brief affair with a German spy during World War II. The family patriarch, Joseph Kennedy, had urged his son to play it safe by reappointing Hoover and Dulles.[169]

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Which brings us to the present. The central fact is that we live today in an Information Age. Open sources give us the vast majority of what we need to know in order to make intelligent decisions. Sound *analysis*, far more than secrecy, is the key to our security. Meaning decisions made by people after debate and argument, in which both assumptions and conclusions are

scrutinized with great care. Decisions made by those who understand how to exploit the wealth and diversity of publicly available information, who no longer simply assume that clandestine collection, *i.e.*, "stealing secrets," equates with greater intelligence.

Joseph S. Nye, Jr., Dean of the Kennedy School of Government at Harvard and former Chairman of the National Intelligence Council, and Admiral William A. Owens, former Vice Chairman of the Joint Chiefs of Staff, make the point nicely in a 1996 article in *Foreign Affairs*. Knowledge is the "power resource of the future," and the key comparative advantage of the United States today and in the future will be in its "ability to collect, process, act upon, and disseminate information. . . ."[170] Even so, they note, "outmoded thinking clouds the appreciation of information as power"; senior policymakers and others apparently prefer to continue to focus on the "traditional measures" of power even though "these measures failed to anticipate the demise of the Soviet Union, and they are an equally poor means of forecasting for the exercise of American leadership into the next century."[171]

The critical point recognized by Nye and Owens, but too often ignored elsewhere, is that U.S. "information dominance" and in turn global leadership will be maintained not through the imposition of measures that preserve maximum secrecy, but instead by "selectively sharing" our dominant knowledge. The technologies that drive the Information Revolution are already available around the world; they are not secrets that adversaries are attempting to steal in order to gain an advantage. Openness, not secrecy, thus offers the better means of "winning hearts and minds" and, by so doing, of expanding American influence.[172]

The danger, simply put, is that the secrecy system will remain in place regardless. In 1996, an Independent Task Force of the Council on Foreign Relations issued a report entitled, *Making Intelligence Smarter*. The word "secrecy" does not appear anywhere in the report, save in one Additional View. That the American public surely has a right to know and a need to know much or most of what is still reflexively labeled "Secret" simply does not rise to the issue of a policy choice. But it is surely that. The Cold War is over. Yet this most pervasive of Cold War-era regulation persists without change.

There is just now a vigorous debate taking place concerning intelligence estimates of Soviet strength during the 1970s and 1980s. In particular, it can be shown that any number of papers by CIA analysts depicted a troubled, even declining economy. But it cannot be shown that any president believed this. It is to be doubted that any such proposition ever made its way through to a president. One National Security Council staffer has observed that "Intelligence estimates typically are written so they can never be wrong. The consequence, of course, is that they never are right." And, indeed, by the late 1980s the president was receiving so many daily intelligence digests from the assorted intelligence agencies that it is doubtful any were actually ever read by the person for whom they were nominally intended.

We ought not to fault American presidents for not understanding a situation any better than their Soviet counterparts. Still, there is a formidable case to be made that by the 1970s and 1980s an enormous institutional interest had developed in "threat analysis in worst possible case conditions." It is, for example, a matter of record that the American diplomats who negotiated the Strategic Arms Treaty (START) with the Soviet Union over the better part of a decade, beginning in 1982, had no intimation until the early 1990s that in the end the Treaty would be signed not with the U.S.S.R. but with four entirely "new" governments: Russia, Ukraine, Belarus, and Kazakhstan.[173] Again, we may assume that the Soviet negotiators had no inkling that their empire was about to

implode, but there is a sense in which that would have been kept a secret in the U.S.S.R. when it could have easily been an open possibility within and without the American Government. Indeed, from the time Murray Feshbach, in 1976, published his findings of the decline of life expectancy in Soviet males, it *was* open in the United States.[174] Perhaps the problem was that Feshbach, then in the Bureau of the Census, had simply studied data from the Soviet census. No secrets there; accordingly, little interest.

Even so, this clearly ought to be the mode in which our Government tries to make sense of the world around us. Secrecy is natural to an information-*poor* society. Accordingly, information is hoarded, exchanged cautiously, with large transaction costs. All this is past. We live, as James S. Coleman observed some years ago, in an "information-rich society." This extends to information about getting information. Everything can be gotten. Open sources give you everything; and for practical purposes there are no closed sources.

The Soviet Union failed to realize this and, accordingly, failed to survive the 20th century. When the nuclear reactor at Chernobyl blew apart in 1986, the United States knew instantly. In those days, we photographed the U.S.S.R. once a day. American officials urged General Secretary Gorbachev to tell the world what had happened. Gorbachev, however, thought it could be kept a secret. As the radioactive fall-out drifted beyond the Soviet borders, sensors, first in one, then another Warsaw Pact country, picked it up, and in time there would be no more Warsaw Pact. It is not necessary to assert a direct connection to make the general point.

The Soviet Union is gone. But the secrecy system that grew in the United States in the long travail of the 20th century challenge to the Western democracies, culminating in the Cold War, is still in place as if nothing has changed. The system is massive, pervasive, evasive. Bureaucracies perpetuate themselves; regulations accumulate and become even more invasive.

This would be expensive and a bit absurd in any situation, but in time for the United States, it is very likely dangerous as well. The future is not likely to be any more peaceful than the past. Conflict rages in many parts of the world, but the basis of conflict is very different from that of the immediate past. The universalist ideology of Communism is past. The assumption that it will now be succeeded by a universal acceptance of legality and democracy, sustained by free and open markets, is surely open to question. It was no accident that the conflict of the 20th century which began with the assassination of the heir to the Austro-Hungarian throne in Sarajevo, had no more finally come to an end when a new ethnic/religious war broke out in . . . Sarajevo, and the Balkans generally. Harkening back to the borders of the Eastern and Western Roman empires, the medieval Christian divide, almost at the limit of Muslim conquest in the age of Suleiman.

It is reasonable to assume, at the very least prudent to assume, that such conflict will be endemic to the next century. It is characterized by acts of nontraditional warfare, which we call terrorism. It is meant to be frightening and it is. Our concern should be that we not give way to fear. To that end, we must surely strive to be as open about such matters as is ever possible. To learn from our past. Secrecy responds first of all to the fear of conspiracy, regularly and consistently associated with one or another ethnic or religious group *within* American society. (Again, it should be obvious that our Muslim citizens are now especially vulnerable.)

It should be equally obvious that in this new period, the United States will be best served by the largest possible degree of openness as to the nature of the threats we face. To do otherwise is to invite preoccupation with passing conspiracy, after all that we have sacrificed in this century to destroy sustained conspiracies that might very well have destroyed us.

DPM

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[1]Albert Bushnell Hart, ed., *Theodore Roosevelt Cyclopedia* (New York: Roosevelt Memorial Association, 1941). "Roosevelt in the Kansas City Star," 1 October 1917, 8.
[2]Edward A. Shils, *The Torment of Secrecy*, with an introduction by Daniel Patrick Moynihan (Glencoe: The Free Press, 1956; reprint, Chicago: Ivan R. Dee, Inc., 1996), 26.
[3]The term "VENONA" is an arbitrary codeword which describes more than 2,900 Soviet diplomatic telegrams sent between 1940 and 1948 and the efforts by the United States Government to decode the messages and to identify Soviet agents mentioned therein. Robert Louis Benson and Michael Warner, eds., *VENONA: Soviet Espionage and the American Response, 1939-1957* (Washington, D.C.: National Security Agency, Central Intelligence Agency, 1996), vii-viii.
[4]Harvey Klehr, John Earl Haynes, and Fridrikh Igorevich Firsov, *The Secret World of American Communism* (New Haven: Yale University Press, 1995), xxvi.
[5]Harold Edgar and Benno C. Schmidt, Jr., "The Espionage Statutes and Publication of Defense Information," *Columbia Law Review* 73, no. 5 (May 1973), 930.
[6]U.S. Department of Defense Security Institute, *Recent Espionage Cases: Summaries and Sources* (Richmond: 1996), 12.
[7]Evan Thomas, "A Singular Opportunity: Gaining Access to CIA's Records," *Studies in Intelligence* 39, no. 5 (1996): 23.
[8]Harold C. Relyea, "National Security and Information," *Government Information Quarterly* 4, no. 1 (1987): 16.
[9]Donald L. Robinson, "The Routinization of Crisis Government," *Yale Review* 63 (Winter 1974): 161.
[10]Relyea, "National Security and Information," 17, quoting Senate Committee on Naval Affairs, *Unification of the War and Navy Departments and Postwar Organization for National Security*, 79th Congress, 1st Session, Washington, D.C.: Government Printing Office, 1945), 578-79.
[11]Relyea, "National Security and Information," 18.
[12]Ibid., 17.
[13]President, Executive Order 10290, "Regulations Establishing Minimum Standards for the Classification, Transmission, and Handling, by Departments and Agencies of the Executive Branch, of Official Information Which Requires Safeguarding in the Interest of the Security of the United States," *Federal Register* 16, no. 188 (27 September 1951): 9797.
[14]President, Executive Order 10501, "Safeguarding Official Information in the Interests of the Defense of the United States," *Federal Register* 18, no. 220 (10 November 1953): 7049.
[15]President, Executive Order 11652, "Classification and Declassification of National Security Information and Material," *Federal Register* 37, no. 48 (10 March 1972): 5209.
[16]President, Executive Order 12958, "Classified National Security Information," *Federal Register* 60, no. 76 (20 April 1995): 19825.
[17]These estimated figures were supplied by the Information Security Oversight Office, which issues an annual report on classification decisions. See Information Security Oversight Office, *1995 Report to the President* (Washington, D.C.: Information Security Oversight Office, 1996). "Derivative" classifiers are responsible for 94 percent of all classification decisions.
[18]Joseph Story, *Commentaries on the Constitution of the United States* (Boston: Little, Brown, 1891; reprint, William S. Hein, 1994), 609-10.

[19]Secrecy was present at the creation. The Constitutional Convention of 1787 met in closed session. Before final adjournment, in answer to an inquiry by George Washington, the presiding officer, the Convention resolved "that he retain the Journal and other papers subject to the order of Congress, if ever formed under the Constitution." Max Farrand, ed., *The Records of the Federal Convention of 1787*, vol. 1 (New Haven: Yale Univ. Press, 1934), xi.
[20]Harold C. Relyea, *The Evolution of Government Information Security Classification Policy: A Brief Overview (1775-1973)* (Washington, D.C.: Congressional Research Service, 11 September 1973), 1.
[21]Benson and Warner, *VENONA*, xxiv.
[22]Ibid., xxix.
[23]*Statutes at Large* 40 (1917): 451.
[24]Jerald A. Combs, "Alien and Sedition Acts," in *The World Book Encyclopedia* (Chicago: World Book, Inc., 1996), 368.
[25]*Statutes at Large* 12 (1861) 326.
[26]As Madison wrote to Jefferson on 13 May 1798, "Perhaps it is a universal truth that the loss of liberty at home is to be charged to provisions against danger, real or pretended, from abroad." James Morton Smith, ed., *The Republic of Letters, The Correspondence between Thomas Jefferson and James Madison 1776-1826* (New York: W. W. Norton & Co., 1995), 2:1048.
[27]Lansing to Wilson, 20 November 1915. Arthur Link, ed., *The Papers of Woodrow Wilson* (Princeton: Princeton University Press, 1980), 35:230.
[28]Ibid., "An Address in Philadelphia to Newly Naturalized Citizens" (10 May 1915), 33: 147-50.
[29]Ibid., "Annual Message on the State of the Union" (7 December 1915), 35: 306-07.
[30]U.S. Department of Justice, *Annual Report of the Attorney General, 1916* (Washington, D.C.: Government Printing Office, 1916), 12-20.
[31]"A Memorandum by Robert Lansing" (20 March 1917), Link, *The Papers of Woodrow Wilson*, 41:442.
[32]Ibid., "Address to a Joint Session of Congress" (2 April 1917), 41:421.
[33]Jules Witcover, *Sabotage at Black Tom: Imperial Germany's Secret War in America, 1914-1917* (Chapel Hill: Algonquin, 1989), 42; Captain Henry Landau, *The Enemy Within: The Inside Story of German Sabotage in America* (New York: G.P. Putnam's Sons, 1937), 7-8.
[34]The *New York Times* recorded in retrospect:

> SEVENTY-FIVE years ago this month, New York Harbor exploded. This is not a figure of speech; it was not an explosion of fear or an explosion of cheers. What took place was a colossal, ear-splitting, ground-shaking, glass-breaking explosion.
>
> The blast came at 2:08 A.M. on July 30, 1916, at Black Tom, a depot jutting out from Jersey City into the Hudson River opposite Manhattan. A New York newspaper said, "A million people, maybe five millions, were awakened by the explosion that shook the houses along the marshy New Jersey shores, rattled the skyscrapers on the rock foundation of Manhattan, threw people from their beds miles away and sent terror broadcast."
> The noise of the explosion was heard as far away as Maryland and Connecticut. Fire alarms and burglar alarms went off; phone lines between New York and New Jersey were severed. On both sides of the Hudson, people in their pajamas rushed out of buildings. Thousands milled around, watching the sky turn red from flames as more explosions thundered from the harbor.
>
> In Jersey City, residents swarmed into churches. On Ellis Island, terrified immigrants were evacuated by ferry to the Battery. Shrapnel from the explosion pierced the Statue of Liberty. The Black Tom terminal was completely destroyed. (Marc Mappen, "Jerseyana," *New York Times*, 14 July 1991, sec. 12, 15.)

[35]"Ram Chandra in Toils with Four Hindoo Plotters," *San Francisco Chronicle*, 8 April 1917, 1.
[36]Joan M. Jensen, "The 'Hindu Conspiracy': A Reassessment," *Pacific Historical Review*, 48 (February, 1979): 65.
[37]Ibid.
[38]John L. Heaton, *Cobb of "The World"* (New York: Dutton, 1924), 270.

[39]Samuel Eliot Morison, Henry Steele Commager, and William E. Leuchtenburg, *The Growth of the American Republic*, 6th ed. (New York: Oxford University Press, 1969), 2:383.
[40]Ibid., 2:386.
[41]*The Encyclopedia of the United States Congress*, vol. 2 (New York: Simon & Schuster, 1995), 774.
[42]Morrison et al., *Growth of the American Republic*, 2:384.
[43]Louis W. Koenig, *Bryan: A Political Biography of William Jennings Bryan* (New York: G.P. Putnam's Sons, 1971), 502-03.
[44]Arthur S. Link, *Wilson: The Struggle for Neutrality, 1914-1915* (Princeton: Princeton University Press, 1960), 420.
[45]"Josephus Daniels Dies at Age of 85," *New York Times*, 16 January 1948, 17.
[46]*New York Times*, 7 March 1916, 1.
[47]*Schenck v. United States*, 249 U.S. 47 (1919).
[48]*Debs v. United States*, 249 U.S. 211 (1919).
[49]Paul P. Van Riper, *History of the United States Civil Service* (Evanston: Row, Peterson and Company, 1958), 266.
[50]Ibid., 265-67.
[51]Max Weber, *Essays in Sociology*, trans. and ed. H.H. Gerth and C. Wright Mills (New York: Oxford University Press, 1946), 233-34; *Wirtschaft und Gesellschaft* (*Economy and Society*), 1922.
[52]William Ebenstein, "Anarchism," in *The World Book Encyclopedia* (Chicago: World Book, Inc., 1986) 424.
[53]Harold C. Relyea, *The Evolution of Government Information Security Classification Policy*, 22.
[54]"Memorandum on the Cabinet Meeting," (20 March 1917), Link, *The Papers of Woodrow Wilson*, 41:438.
[55]Ibid., 41:440.
[56]There was a quality of openness in 19th and early 20th century civil society that is all but forgotten today. Weber, a reserve Army officer called back to duty during the War, sensing the outcome, wrote a friend in 1917:

> As soon as the war has come to an end, I shall insult the Kaiser until he sues me, and then the responsible statesmen, Bulow, Tirpitz, and Bethmann-Hollweg, will be compelled to make statements under oath. (Weber, *Essays*, 22.)

[57]Robert A. Rosenstone, *Romantic Revolutionary: A Biography of John Reed* (Cambridge: Harvard University Press, 1990), 330.
[58]Klehr et al., *Secret World*, 22.
[59]Draper reproduces an estimate of the membership of the CPUSA:

English	1,900*
Non-federation Language members	1,100
Estonian	280
German	850
Hungarian	1,000
Jewish	1,000
Lettish	1,200
Lithuanian	4,400
Polish	1,750
Russian	7,000
South Slavic	2,200
Ukrainian	4,000
Total	26,680

*Including 800 of the Michigan organization which soon dropped out.

Theodore Draper, *The Roots of American Communism* (Chicago: Ivan R. Dee, Inc. 1957), 189.
[60]Ibid., 191.
[61]Ibid.
[62]Klehr et al., *Secret World*, 323.

[63]Nathan Glazer, *The Social Basis of American Communism* (New York: Harcourt, Brace & World, 1961), 3. Maurice Isserman estimates that, in the years before World War II, there were 50,000 to 75,000 CPUSA members in the United States. Maurice Isserman, *Which Side Were You On? The American Communist Party During the Second World War* (Middletown: Wesleyan University Press, 1982), 18.
[64]Stanley Coben, *A. Mitchell Palmer: Politician* (New York: Da Capo Press, 1972), 203-04.
[65]Robert K. Murray, *Red Scare: A Study in National Hysteria, 1919-1920* (Minneapolis: University of Minnesota Press, 1955; reprint, Westport: Greenwood Press, 1980), 213.
[66]Roberta Strauss Feuerlicht, *America's Reign of Terror: World War I, the Red Scare, and the Palmer Raids* (New York: Random House, 1971), 108.
[67]Draper, *Roots*, 207.
[68]Klehr et al., *Secret World*, 21-24.
[69]These subsidies continued into the 1980s, by which time the CPUSA scarcely existed. Evidently, Moscow did not realize this, assuming perhaps the greater portion of the Party had gone underground. It is ever difficult for clandestine operators to check their facts!
[70]Richard Crossman, ed., *The God that Failed: Six Studies in Communism* (London: Hamish Hamilton, 1950), introduction, 16.
[71]Klehr et al., *Secret World*, 25.
[72]Sidney Hook, *Out of Step: An Unquiet Life in the 20th Century* (New York: Harper & Row, 1987), 241.
[73]NKVD is the abbreviation for narodnyi komissariat vnutrennikh del (People's commissariat of internal affairs), predecessor to the KGB, the name formally used beginning in 1954. Often, however, early Soviet intelligence operations also are described by historians as those of the KGB for the sake of clarity. (See, for example, Klehr et al., *Secret World*, xxvii; Benson and Warner, *VENONA*, ix.)
[74]National Security Agency, Fourth VENONA release, 17 July 1996, vol. 3, nos. 174-176 (29 December 1943).
[75]Hook, *Out of Step*, 281.
[76]Ibid. In 1946, Lionel Trilling of Columbia University published his novel, *The Middle of the Journey*. It recounts the ordeal of an American Communist—clearly Chambers—who had broken with the Party and, as a means of escaping death, was now desperate to establish that he was still alive. This involved his relationship with another conspirator—just as clearly Alger Hiss. Trilling knew Chambers. He did not know Hiss existed. Yet he *did* know.
[77]Ibid., 285.
[78]David Riesman, *Abundance for What?* (Garden City: Doubleday, 1964; reprint, New Brunswick: Transaction Publishers, 1993), 80.
[79]Art Ronnie, *Counterfeit Hero: Fritz Duquesne, Adventurer and Spy* (Annapolis: Naval Institute Press, 1995), 208-09.
[80]Ibid., 214.
[81]Ibid., 2.
[82]Kathleen Neils Conzen, "Germans," in *Harvard Encyclopedia of American Ethnic Groups*, ed. Stephan Thernstrom (Cambridge: Harvard University Press, 1980), 423.
[83]Ibid.
[84]Robert Edwin Herzstein, *Roosevelt & Hitler: Prelude to War* (New York: Paragon House, 1989), 189.
[85]Ibid., 190.
[86]Don Whitehead, *The FBI Story* (New York: Random House, 1956), 212.
[87]By 16 February 1942, these numbers had expanded to a total of 2,192 Japanese, 1,393 Germans, and 264 Italians. Commission on Wartime Relocation and Internment of Civilians, *Personal Justice Denied, Report of the Commission on Wartime Relocation and Internment of Civilians* (Washington, D.C.: Government Printing Office, 1992), 55.
[88]Ibid., 73.
[89]Ibid., 81.
[90]President, Executive Order 9066, *Federal Register* 7, no. 38 (25 February 1942):1407.
[91]*Personal Justice Denied*, 308.
[92]Ibid., 287.
[93]Stephen Fox, *The Unknown Internment: An Oral History of the Relocation of Italian Americans during World War II* (Boston: Twayne, 1990), 136.

[94]*Civil Liberties Act of 1988,* 102 Stat. 94 (1988). U.S. citizens of Aleutian descent also were relocated. The Act said of them, "The United States failed to provide reasonable care for the Aleuts, and this resulted in widespread illness, disease, and death among the residents of the camps."
[95]J. L. DeWitt, "Final Report: Japanese Evacuation from the West Coast, 1942," in *Personal Justice Denied,* 83.
[96]Maurice M. Shapiro, "Echoes of the Big Bang," *New York Times,* 15 July 1995, 21.
[97]Richard Rhodes, *The Making of the Atomic Bomb* (New York: Simon & Schuster, 1986), 676.
[98]Robert K. Murray, *Red Scare: A Study in National Hysteria, 1919-1920* (Westport: Greenwood Press, 1955; reprint, Westport: Greenwood Press, 1980), 25; Edwin P. Hoyt, *The Palmer Raids 1919-1920* (New York: The Seabury Press, 1969), 115-17.
[99]Robert Lamphere and Tom Shachtman, *The FBI-KGB War* (New York: Random House, 1986), 78-98. Six years earlier, in his book *Wilderness of Mirrors*, David Martin had described the efforts of American cryptanalysts to break the Soviet code. However, he did not cite the VENONA project by name.
[100]The three others from the State Department in the U.S. delegation were Edward R. Stettinius, Jr., Secretary of State; H. Freeman Matthews, Director of the Office of European Affairs; and Wilder Foote, Assistant to the Secretary of State. See Edward R. Stettinius, Jr., *Roosevelt and the Russians: The Yalta Conference* (Garden City: Doubleday, 1949), 30.
[101]Benson and Warner, *VENONA*, xxiv.
[102]*U.S. Statutes at Large* 60 (1947): 495. *National Security Act of 1947*.
[103]Robert Warshow, "The Legacy of the 30's: Middle-Class Mass Culture and the Intellectuals' Problem," *Commentary* (December 1947): 538.
[104]Whitehead, *FBI*, 158-61.
[105]Christopher Andrew and Oleg Gordievsky, *KGB: The Inside Story* (New York: HarperCollins, 1990), 373-74.
[106]The successor to the OSS was the Central Intelligence Group (CIG), a "clearinghouse" body headed by the Director of Central Intelligence. Subsequently, the CIA was established in 1947.
[107]Senator Joseph R. McCarthy, *America's Retreat from Victory: The Story of George Catlett Marshall* (New York: Devin-Adair, 1951).
[108]Suslov joined the Politburo (then called the Presidium) in October 1952, but left in 1953 after Stalin's death. He rejoined it in 1955 and remained a member until his death on 25 January 1982.
[109]Daniel Patrick Moynihan, *A Dangerous Place* (Boston: Little, Brown and Company, 1978), ix-x.
[110]Erwin Griswold, "Government in Ignorance of the Law — A Plea for Better Publication of Executive Legislation," *Harvard Law Review* 48 (1934): 198. Griswold argued that administrative regulations "equivalent to law" had become important in the ordering of everyday life and criticized the fact that such rules were not published and thus not available to the public. The next year, Congress enacted the Federal Register Act of 1935, *Statutes at Large* 49 (1935): 500.
[111]*United States v. Curtiss-Wright Export Corp.*, 299 U.S. 304, 319 (1936).
[112]Richard Frank, "Enforcing the Public's Right to Openness in the Foreign Affairs Decision-Making Process," *Secrecy and Foreign Policy,* eds. Thomas Franck and Edward Weisband (New York: Oxford Univ. Press, 1974), 272-73.
[113]*Statutes at Large* 53 (1953): 1148.
[114]The 1912 Act provided that a government employee could not be removed except for such cause as would promote the efficiency of the civil service. It also established specific procedures for notification of any charges against an employee and responses to such charges.
[115]*Statutes at Large* 22 (1883): 403.
[116]Commission on Government Security, *Report of the Commission on Government Security (*Washington, D.C.: Government Printing Office, 1957), 3-6; Eleanor Bontecou, *The Federal Loyalty-Security Program* (Westport: Greenwood Press, 1953), 14.
[117]*Report of the Commission on Government Security,* 6.
[118]Harold Green, "The Oppenheimer Case: A Study in the Abuse of Law," *Bulletin of the Atomic Scientists* (September 1977): 12, 61.
[119]The critique was published in the *New York Times,* 13 April 1947; see Bontecou, *Federal Loyalty-Security Program*, 30-31.

[120]President, Executive Order 10450, "Security Requirements for Government Employees," *Federal Register* 18, no. 82 (29 April 1953): 2489.
[121]Attempting to respond to the criticism, President Truman had amended his Executive Order in July 1951, lowering the standard of proof for disloyalty: "The standard for the refusal of employment or the removal from employment in an Executive department or agency on grounds relating to loyalty shall be that on all the evidence, *there is reasonable doubt* as to the loyalty of the person involved." (Emphasis added.) Executive Order 10241, *Federal Register* 16, no. 84 (1 May 1951): 3690. Then, in 1952, the President convened a committee with the objective of merging the "loyalty, security, and suitability programs, thus eliminating the overlap, duplication, and confusion which apparently now exist." (Harry S Truman, letter to the Chairman of the Civil Service Commission, 8 August 1952.) But the often-partisan attacks on his loyalty program persisted, and a single, unified program for reviewing applicants for government positions and existing employees never was established — even after the Wright Commission in 1957 criticized the Eisenhower structure as an "unnatural blend" and a "hybrid product . . . neither fish nor fowl, resulting in inconclusive adjudications, bewildered security personnel, employee fear and unrest, and general public criticism." *Report of the Commission on Government Security,* 44.
[122]Under Executive Order 10450, the *scope* of the investigation varies based on the degree of adverse impact (if any) on national security that the individual could cause by virtue of his or her position.
[123]*Statutes at Large* 64 (1950): 476.
[124]Anthony Leviero, "New Security Plan Issued; Thousands Face Re-Inquiry," *New York Times*, 28 April 1953, 1.
[125]Ibid., 20.
[126]Shils, *Torment,* 213-14. Shils went on to offer a strong critique of the system:

> This seems a narrow and doctrinaire conception of the motives of treasonable conduct. It is this narrow doctrinairism which makes the present system so inefficient, even though it may well be fairly effective. Although it might catch a few potential spies, it hurts many innocent persons. The resources marshaled against the potential spy are usually almost equally dangerous to the innocent....

[127]*Congressional Record,* 84th Cong, 1st sess., 18 January 1955, 463-64.
[128]Ibid.
[129]Ibid.
[130]*Report of the Commission on Government Security,* xiii-xiv.
[131]James Reston, "Security vs. Freedom: An Analysis of the Controversy Stirred By Recommendation to Curb Information," *New York Times, 25* June 1957, 17.
[132]*Report of the Commission on Government Security,* 688.
[133]Max Frankel, "Top Secret," *New York Times Magazine* (16 June 1996): 20.
[134]House Committee on Government Operations, *Availability of Information From Federal Departments and Agencies,* 86th Cong., 2d sess., 1960, House Rept. 86-2084, 36.
[135]*Report of the Commission on Government Security,* 153.
[136]In an even-tempered, respectful dissent to the proposal for a new, centralized security structure, former Attorney General McGranery wrote:

> It is perhaps unnecessary at this time to dwell upon the inherent evil of the pyramiding of administrative devices, the superimposing of agency upon agency and the empire-building proclivities which frequently go hand in hand with the creation of overseers. Yet it should be pointed out that no problem is solved by shifting primary executive responsibility from agencies and officials having that primary responsibility to superimposed administrative creations, even where the latter are described as advisory. The power to suggest too easily becomes the power to demand.
>
> There is no substitute for sound administrative procedures and the exercise of commonsense. The time has come for emphasis to be placed on the spirit of the law.
>
> It would have been refreshing, indeed, if the Commission had seen fit to submit a final report correcting existing procedures and practices without finding it necessary to enlarge

> and complicate the Government structure while adding no guarantee of increased effectiveness. What is needed is a correction in those existing procedures which fail to achieve Government security with minimum delay and maximum protection of the civil rights of the loyal employee. What is needed is the will to make corrected procedures work. There is no assurance that a new agency would be perfect. It is necessary to hold mistakes of judgment to a minimum and, once having occurred, then fix responsibility and seek to avoid their recurrence. This can best be done by holding accountable those officials and agencies having the primary responsibility.
>
> There can be no doubt that there is a need for uniformity in security procedures but there is also a need to preserve the responsibility of the departments and agencies for the proper administration of the security program. (Ibid., 799.)

[137]*Report of the Commission on Government Security,* 156.

[138]Relyea, *Evolution of Government Information Security Classification Policy,* 50; Robert O. Blanchard, "Present at the Creation: The Media and the Moss Committee," *Journalism Quarterly* 49 (Summer 1972): 272.

[139]House Committee on Government Operations, *Availability of Information From Federal Departments and Agencies (Department of Defense),* 85th Cong., 2d sess., 1958, House Rept. 85-1554, 152.

[140]House Committee on Government Operations, *Executive Classification of Information — Security Classification Problems Involving Exemption (b)(1) of the Freedom of Information Act,* 93d Cong., 1st sess., 1973, House Rept. 93-221, 21.

[141]*Freedom of Information Act,* 5 U.S.C. 552 (1966).

[142]Even so, significant concerns remain about the both the effectiveness and the efficiency of the procedures used under the FOIA. For example, at its Public Access Roundtable program on 16 May 1996, the Commission heard testimony from journalist Terry Anderson concerning his efforts to use the FOIA to reconstruct the history of his seven years of captivity in Lebanon. What he encountered from his own Government—a mixture of outright denials of requested information, regrets for long delays, documents blacked out completely, and piles of foreign newspaper clippings on Middle Eastern terrorism that somehow had come to be classified once they entered agency files—led him to tell the Commission: "It's not the law that has to be changed, but the culture of non-cooperation among the bureaucrats."

[143]*Report of the Commission on Government Security,* xx.

[144]Defense Science Board, *Final Report of the Defense Science Board Task Force on Secrecy* (1 July 1970). Somewhat ironically, given its tone and recommendations, the Task Force Report was marked "For Official Use Only," in an apparent effort to control its distribution.

[145]The Task Force noted that "never in the past has it been possible to keep secret the truly important discoveries, such as the discovery that an atomic bomb can be made to work. . . ." Ibid., 3-4.

[146]Frankel, "Top Secret," 20.

[147]Edgar and Schmidt, "The Espionage Statutes and Publication of Defense Information," 934, 936.

[148]With respect to the 1950 amendments, Edgar and Schmidt term the Senate legislative history "inexplicit" on the key issues, the House report "inexplicable." Ibid., 1023.

[149]Ibid., 937.

[150]According to data gathered by the Department of Justice, there were 67 indictments under the espionage laws between 1975 and August 1996. Figures compiled by the Department of Defense Security Institute show 86 new espionage cases *reported* between 1975 and 1995. (Both sets of materials are on file at the Commission offices.) Aldrich Ames was indicted under 18 U.S.C. 794(c) of the Espionage Act for a conspiracy "to directly or indirectly communicate, deliver or transmit . . . documents and information related to the national defense . . . to a foreign government or a representative or officer thereof . . . with the intent or reason to believe such information could be used to the injury of the United States or to the advantage of a foreign government." His wife, Rosario, was also indicted for conspiracy under a separate provision of the Act, 18 U.S.C. 793(g), for "a willful combination or agreement" with her husband "to communicate, deliver or transmit . . . documents relating to the national defense . . . to persons not authorized to receive them." Both also were indicted on tax fraud charges. Both subsequently pled guilty, with Aldrich Ames sentenced to life imprisonment without parole and Rosario Ames to a five-year term.

[151]Edgar and Schmidt, citing Morrison, *The Protection of Intelligence Data* (unpublished paper on file in the Columbia Law School Library). "The Espionage Statutes and Publication of Defense Information," 1055.
[152]Erwin N. Griswold, "Secrets Not Worth Keeping," *Washington Post*, 15 February 1989, A25.
[153]If real, as against nominal, growth rates are used, the "crossover" does not occur until the year 2021, but the Soviets would have, by any such calculation, long since established a potential military superiority.
[154]Allen W. Dulles, "Dimensions of the International Peril Facing Us," Address to the U.S. Chamber of Commerce, Washington D.C., April 28, 1958. *Vital Speeches of the Day*, vol. xxiv, no. 15, 15 May 1958, 453.
[155]W. W. Rostow, conversation with Daniel Patrick Moynihan, 1962.
[156]John Prados, *The Soviet Estimate: U.S. Intelligence Analysis & Soviet Strategic Forces* (Princeton: Princeton University Press, 1982), 74.
[157]Joint Committee on Defense Production, *Deterrence and Survival in the Nuclear Age (The "Gaither Report" of 1957)*, 94th Cong., 2d sess., 1976, 25.
[158]Prados, *The Soviet Estimate*, 80, quoting Joseph and Stewart Alsop, *New York Herald-Tribune*, 1 August 1958.
[159]*"Gaither Report,"* introduction, iii.
[160]Bryan Hehir, *The Uses of Force in the Post-Cold War World* (Washington, D.C.: Woodrow Wilson Center for Scholars, August 1996), 3.
[161]Senate Committee on Foreign Relations, *Estimating the Size and Growth of the Soviet Economy: Hearing Before the Committee on Foreign Relations*, 101st Cong., 2d sess., 1990, 49.
[162]Ibid., 33.
[163]Central Intelligence Agency, National Foreign Assessment Center, *Handbook of Economic Statistics*, 1990, 38.
[164]Dale W. Jorgenson, letter to Senator Daniel Patrick Moynihan, 18 March 1991.
[165]While concluding that this failure of analysis was not unique to the intelligence community, Dr. Rowen also has noted at least four major areas in which the "CIA economic assessments differed markedly from those of observers outside the community," including the overall size of the Soviet economy; the economy's performance; the military burden/share of Soviet GDP; and what he terms the "costs of empire." Henry Rowen and Charles Wolf, Jr., "The CIA's Credibility," *The National Interest* (Winter 1995/96): 111-12 (letter to the editor responding to an article in the previous issue vindicating the CIA's analysis).
[166]Stansfield Turner, "Intelligence for a New World Order," *Foreign Affairs* (Fall 1991): 162.
[167]Anders Åslund, "The CIA vs. Soviet Reality," *Washington Post*, 19 May 1988, 25.
[168]National polling data (from the Gallup Organization; Louis Harris and Associates; ABC News/Washington Post; Time/CNN/Yankelovich; CBS News/New York Times; and Gallup/CNN/USA Today surveys) provided by the Assassination Records Review Board and on file at the Commission offices. Congress in 1992 established the Assassination Records Review Board to review all records related to the Kennedy assassination and make them available to the public (subject to narrow exemptions) as soon as possible. The efforts of the Board are likely to do a great deal to clarify the historical record concerning the assassination and the activities of Oswald and others; it is far less likely that they will have much impact on future polls concerning the matter.
[169]Evan Thomas, *The Very Best Men, Four Who Dared: The Early Years of the CIA* (New York: Simon & Schuster, 1995), 239, citing Thomas C. Reeves, *A Question of Character: A Life of John F. Kennedy* (New York: Free Press, 1991), 217-18; Michael Beschloss, *The Crisis Years: Kennedy and Khrushchev, 1960-1963* (New York: Harper Collins, 1991), 103.
[170]Joseph S. Nye, Jr. and William A. Owens, "America's Information Edge," *Foreign Affairs* (March/April 1996): 20.
[171]Ibid., 22.
[172]Ibid., 27-28, 34.
[173]When the Foreign Relations Committee held a hearing on the Treaty in 1992, I had the following exchange with Ambassador Ronald F. Lehman, then Director of the U.S. Arms Control and Disarmament Agency, and Ambassador Linton F. Brooks, Chief START Negotiator and Acting Head of the U.S. Delegation to the Nuclear and Space Talks:

> Senator Moynihan: When did you, as negotiators, first contemplate the possibility that you would be signing a treaty with four countries and not one?

Ambassador Lehman: Well, if you mean informal speculation it probably began about 2 years ago [i.e., June 1990]. In terms of would this actually have come to pass, I think at the time of the Moscow coup [August 1991] people began to realize that some of the themes we were gearing around the Soviet Union might begin moving very quickly.

Senator Moynihan: Two years ago you began to think it might be possible; one year ago it became real?

Ambassador Lehman: I think it became quite obvious that we had to step up to the issue with the dissolution of the Soviet Union in December of last year.

Senator Moynihan: About December of last year, you had to begin to deal with the proposition of the dissolution of the Soviet Union. **** Could I ask Ambassador Brooks . . . [w]as there any collective memory of anybody on the Senate observers group suggesting to you that by 1992 you would indeed be negotiating with four governments and not one?

Ambassador Brooks: Senator, I certainly do not remember that. . . . I think very few of us on our end of the street predicted that. . . .

Senate Committee on Foreign Relations, *The START Treaty: Hearings Before the Committee on Foreign Relations*, 102d Cong., 2d sess., 1992, 67-68.

[174]Murray Feshbach and Stephen Rapawy, "Soviet Population and Manpower Trends and Policies," in Joint Economic Committee, *Soviet Economy in a New Perspective*, 94th Cong., 2d sess., 14 October 1976, 113.