

1

Introduction

EARLY COLD WAR SPY CASES

AT THE HEIGHT OF THE EARLY COLD WAR, IN THE LATE 1940S and early 1950s, newspaper headlines repeatedly trumpeted the exposure of yet another nest of Communist spies or saboteurs who had infiltrated American laboratories or labor unions or government agencies. Many Americans worried that a Communist “fifth column,” more loyal to the Soviet Union than to the United States, had burrowed into their institutions and had to be exposed and removed.

The issue of Soviet espionage became a U.S. obsession, and domestic security dominated public discourse. Legislative committees vied with one another to expose Communists. The executive branch labored to root out disloyal government employees. The courts wrestled with the balance between constitutional rights and societal self-protection. The trade-union movement expelled from its ranks those unions with hidden Communist leadership. Liberalism, the dominant political movement of the era, fought an internal civil war over whether Communists were legitimate participants in the New Deal coalition, a struggle that ended with the triumph of anti-Communist liberalism and the assignment of Communists and their allies to the fringes of politics.

There was a widespread consensus that Soviet espionage was a serious problem, American Communists assisted the Soviets, and some high officials had betrayed the United States. But in the 1960s this consensus disintegrated. The use of anticommunism for partisan purposes by Senator Joseph McCarthy in the 1950s produced a backlash of incredulity about the extent of the domestic Communist problem. The once-significant presence of the Communist Party, USA (CPUSA) in mainstream politics in some states and the trade-union movement was a fading memory, the hundreds of secret Communists who had worked for the U.S. government were long gone from federal service, and Soviet espionage was only a fraction of

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Excerpt

[More information](#)

2 | Introduction

what it had been in its heyday in the early 1940s. In retrospect, some wondered if the entire threat had been imagined or drastically exaggerated. Obsessive anticommunism was blamed for foreign policy disasters like the Vietnam War and violations of civil liberties. Revisionist historians challenged the idea that internal security had been a serious problem and accused government officials of cynically and deliberately orchestrating public fear about the issue to advance narrow political and ideological interests and to justify a war economy. In the “New Left” movement of the late 1960s and 1970s and the militant wing of the anti-Vietnam War campaign there were radicals who defined themselves as Marxist revolutionaries of some sort or who were “pro-Communist” in some fashion. But while the CPUSA found a small role in those campaigns, for the most part the student New Left activists of that era operated independently of the small and ineffectual CPUSA and without direct ties to the intelligence services of a hostile foreign power.

In the early years of the twenty-first century, in an age when communism has virtually disappeared from domestic political life and is in eclipse around the world, it is difficult to recall just how formidable it once appeared to be or why serious people were able to justify devoting so many resources to combating it. There are in 2006 probably fewer than two thousand increasingly elderly members of the American Communist Party.

The end of the Cold War in the late 1980s marked the beginning of a major reassessment of twentieth-century history. Such a dramatic and portentous event threw new light on a whole epoch and demanded a rethinking of how and why it happened. Just as important was the limited but dramatic opening of some key archives containing long-buried secrets of the Cold War, which enabled historians to see some major controversies for the first time in more complete detail. Long-contested issues could now be settled with dramatic new evidence.

No branch of history was so affected as the one studying American communism and its relationship with Soviet espionage. After decades of acrimonious debate, hard evidence emerged to end arguments about the guilt or innocence of some of the iconic figures of the McCarthy era. While debate and controversy about some issues remain among historians, the main contours of the story of Soviet espionage against the United States are now largely understood.

The availability of new evidence offers opportunities to look at old problems through clearer lenses. Just as we now know in considerable

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Excerpt

[More information](#)

Early Cold War Spy Trials | 3

detail the story of Soviet espionage, we also can look back at the ways in which the American public learned about the problem and how the American government dealt with it. In particular, we can return to the occasions when the executive branch attempted to prosecute those involved in espionage and evaluate not only its successes and failures but also the limitations and difficulties imposed on it by the American legal system. New information about specific cases permits us to assess the stratagems employed by government prosecutors and defense attorneys. One of the most striking facts, and to many people likely disturbing, is that hundreds of Americans spied for the Soviet Union but only a few were ever prosecuted. One possible conclusion is that the Soviet intelligence service was extraordinarily successful and American counterintelligence inept. While there is some truth to this argument, it is not the whole story.

The issue of Soviet espionage can help illuminate something about the American legal system and the role of trials in shaping the public perception of historical events. Trials are inherently dramatic events. They are public occasions during which individuals are confronted with charges that they have violated the norms and rules of the society in which they live. In federal criminal trials, the United States government is arrayed against the accused. The American system of jurisprudence – with its insistence on public trials, an adversarial system with contending lawyers representing the state and the accused, a neutral judge deciding on questions of law and presiding over the contest, and a jury of peers listening to the evidence and then rendering a verdict on guilt or innocence – is particularly well suited to turning these events into spectacles.

Early Cold War Spy Trials

Each of the following six chapters examines one or more of the early Cold War spy cases that shaped public attitudes toward the nature of the Soviet threat, the complicity of American Communists in espionage and betrayal, and the adequacy of the American government's response. Although courtroom trials will be the center of most chapters, the "cases" are broader than just the particulars that were introduced into a specific prosecution. In 1948 Elizabeth Bentley, for example, identified dozens of government officials as Soviet spies, including an assistant secretary of the Treasury and a senior White House adviser, but only three minor prosecutions

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Excerpt

[More information](#)

4 | Introduction

stemmed from her testimony. Nonetheless, the Bentley “case” had as major an impact on public opinion as the more elaborate trials of Alger Hiss in 1949 and Julius Rosenberg in 1950.

The second chapter deals with the 1945 cases of *Amerasia* and Igor Gouzenko. The seventh chapter ends with the 1962 death of Robert Soblen, then in England and about to be returned to the United States after an unsuccessful flight to avoid a prison term for an espionage conviction related to his activities in the 1940s and 1950s. The spy cases of the 1940s and 1950s had their origin in the pre-Cold War era and reflected a time when American counterintelligence was so weak and the risk of public scandal so slight that the political activities of American Communists overlapped and were entangled with Soviet espionage. Those Americans who spied for the USSR in that era were by and large motivated by an ideological commitment to communism, admiration for the Soviet Union, and rejection of capitalism and the American social order. To a small segment of Americans, the Great Depression of the 1930s signaled the death spiral of capitalism, and the world could only choose between fascism and communism. Assisting Soviet espionage appeared to some of that generation to be but another way of ushering in the inevitable triumph of worldwide socialism.

These cases dating from 1945 to 1962 not only shaped public attitudes but put an end to that earlier era. The CPUSA’s assistance to Soviet espionage, once a major asset for Soviet spying, turned into a liability. The Communist Party, while not a mass movement, nonetheless had a substantial membership, about sixty thousand in 1945. This membership, moreover, was constantly in flux. Each year thousands of members dropped out from disillusionment, boredom, or fatigue at the heavy demands the party placed on its adherents. At the same time, party organizers recruited thousands of new members to replace the dropouts and increase the CPUSA’s size. Compared with the sprawling disorganization of other American political parties, the CPUSA was disciplined and semi-covert, and even maintained a party security network designed to identify government infiltrators. Nonetheless, an organization with sixty thousand members with thousands of new adherents coming in or dropping out each year was highly vulnerable to penetration by professional security officers conducting a sustained investigation. Once American counterespionage agencies, greatly strengthened by the World War II mobilization,

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John Earl Haynes and Harvey Klehr

Excerpt

[More information](#)

Early Cold War Spy Trials | 5

turned their attention to Soviet espionage, the porousness of the American Communist Party to investigation led to the collapse of the multiple Soviet spy networks based on American Communists. Additionally, the spy trials irredeemably tainted the CPUSA with espionage and betrayal and contributed to the political isolation of the American Communist movement.

Soviet espionage did not end with Soblen's death in 1962, but Soviet spying of the 1960s and the later decades of the Cold War was of a different quality from that of the 1940s and 1950s. Due to the risk, Soviet espionage agencies stopped using the CPUSA as an auxiliary to their work. The ideological attraction of communism also receded when the American economy regained its dynamism after the Great Depression and the realities of Soviet totalitarianism in the Stalin era became common knowledge. In the 1960s and thereafter, while ideological attraction occasionally led some Americans to spy for the Soviet bloc (New Left radicals Theresa Squillacote and Kurt Stand, convicted in 1998, are examples), most Soviet spies were motivated by greed for money, personal discontent and resentments, adventurism, and sexual blackmail. The most notorious, Aldrich Ames (convicted 1994) and Robert Hansen (convicted 2001), had no discernible political agenda. Ames, a CIA officer, sold American intelligence secrets to the Soviet KGB for money. Hansen, an FBI agent, turned over American counterintelligence information to the KGB out of greed and a twisted personality that thrived on betraying his colleagues and his country. John A. Walker Jr., a U.S. Navy warrant officer, betrayed American naval secrets to the USSR for eighteen years and along the way recruited other navy personnel – his brother, an officer; his son, a petty officer; and a civilian communications specialist – into espionage as well. Walker (convicted in 1985) had no known sympathy for the left, even flirting with the Ku Klux Klan, and was motivated entirely by greed, as were the other members of his spy ring.

Other trials and legal proceedings in the early Cold War era involved internal political subversion, state and federal statutes on sedition, and the balancing of democratic free speech rights with agitation for revolution and the destruction of the Constitution. These are important matters but a subject separate from espionage for a foreign power. Similarly, the attitude of private bodies such as trade unions and political organizations to the legitimacy of association with Communists is consequential but irrelevant

6 | Introduction

to espionage. The cases dealt with in the book focus on those involving Soviet espionage.

A Word about Trials and History

Occasionally, a prominent trial throws light and attention on some broader problem or issue. What began as a simple criminal prosecution becomes part of a larger debate about the kind of society America was or was becoming. Questions about the evidence become questions about the fairness of the American judicial system or the ability of juries to free themselves from prior prejudices. Commentators insist that the issues and facts of the case have a larger, more cosmic significance than the fates of the accused.

Criminal trials, however, are supposed to be about the particular facts of a case. Did the defendants actually do what they are accused of doing? Over the centuries, legislatures and higher courts have evolved a complex set of rules designed to ensure that juries hear only evidence pertinent to the charges. Prejudicial testimony likely to inflame emotions without throwing light on the facts of the case is not apt to be allowed. Hearsay evidence, or accounts of what someone was told by other parties, is usually forbidden. Irrelevant information is not permitted into testimony. Prosecutors themselves will often decide to bring charges only on a narrowly defined issue where the evidence is ample (and legally admissible), even though they are convinced of the guilt of a defendant on a much broader array of crimes. When that happens, the evidence dealing with these other activities will not be introduced into trial proceedings. The complex rules of the American justice system are themselves also a source of injustice on occasion. When police overlook a procedural rule or obtain evidence by irregular or illegal means, or a prosecutor forgets to file the right motion, a court may exclude relevant evidence from the trial or dismiss a conviction on technical grounds, allowing the obviously guilty to go free.

Trial proceedings, consequently, offer an intensely focused look at the facts of history. But students of history must place trial proceedings in a broader context to properly access their meaning by bringing into consideration the broader array of evidence that trial procedures exclude. And, of course, the passage of time brings new evidence to light and allows the luxury of hindsight denied to those participating in the event at the time.

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Excerpt

[More information](#)

Spy Trials and McCarthyism | 7

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When critics of the American regime have been charged with crimes, their defense not only has been to claim innocence but often also to counter-charge that the criminal justice system was being used to railroad dissenters or instill fear in dissidents. Some criminal cases become symbols of the alleged unfairness of the judicial system and the American political order.

No period in American history has been so defined by charges of criminalizing dissent as the McCarthy era. Senator Joseph McCarthy of Wisconsin gave his name to a phenomenon that has come to define a dark age in American life. Various labels “a nightmare in Red,” “the time of the toad,” a “scoundrel time,” “the Great Fear,” and “the American inquisition,” the late 1940s and early 1950s have been portrayed as an era when, obsessed by fear of Communist subversion and Soviet spies, Americans sacrificed their civil liberties and engaged in a massive witch-hunt against alleged Communists.

Although McCarthy gave his name to this era, commentators have stressed that the assault against Communists began long before he first burst into prominence in 1950 and continued after the Senate effectively ended his political career by censuring him for misconduct in 1954. McCarthy himself never prosecuted anyone for any crime; his defining tactic was to accuse people of being Communists or serving the Communist cause and to launch congressional investigations that carried no legal penalty other than contempt of Congress or perjury for refusing to answer questions or testifying falsely.

The most prominent alleged victims of McCarthyism broadly defined are Alger Hiss and Julius and Ethel Rosenberg. For decades scholars and activists have waged a campaign to demonstrate that their trials for working on behalf of the Soviet Union were tainted by anti-Communist hysteria and their convictions were miscarriages of justice. But Hiss and the Rosenbergs are only three of the many people during this era accused and tried for espionage or crimes related to their espionage, such as perjury or failing to register as the agent of a foreign power. (Hiss, for example, was found guilty of perjury for lying about his espionage activities.) These cases have raised serious and continuing questions about the American legal system, the competence of American counterintelligence agencies, the integrity of the FBI, and the nature of the Cold War.

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Excerpt

[More information](#)

8 | Introduction

Politics of the Early Cold War

The early Cold War spy cases garnered intense public attention at the time because of the rapidly shifting political context. As World War II drew to an end in 1945, only a few Americans worried about a Communist threat. After nearly four years of total war against fascism in alliance with the Soviet Union, there was widespread hope that the postwar world would see a continuation of the cooperation that had sealed victory against Germany and Japan. The CPUSA had never been able to become a mass political movement, even during the Great Depression, although it had managed to create a formidable array of affiliated and cooperating organizations and had built centers of strength in the trade-union movement, among some ethnic groups, in student and youth organizations, and in intellectual circles.

The Nazi-Soviet Pact of 1939 had only temporarily stalled the CPUSA's efforts to gain influence in American life but had convinced some disillusioned liberals that Communists could not be trusted to put the interests of the United States ahead of the Soviet Union. Other anti-Communists had launched investigations of American communism in the late 1930s under the aegis of the Dies committee (U.S. House Special Committee on Un-American Activities). During World War II, a series of investigations and revelations had convinced some counterintelligence officials that Communists and the USSR were only *temporary* allies of the United States. As the war wound down, moreover, the Soviet Union sent a remarkable signal via the CPUSA that a new era of conflict was about to begin.

In 1944, flush with enthusiasm about the prospects for postwar cooperation between the two superpowers, Communist Party leader Earl Browder had hailed the results of the December 1943 conference in Tehran of Stalin, Roosevelt, and Churchill as a new landmark in the relationship between capitalism and communism. By Browder's lights, the Tehran meeting where the three agreed on a common war policy against Nazi Germany had demonstrated that the United States and Great Britain had accepted the legitimacy of the USSR, which, in turn, had given up the dream of overthrowing world capitalism. The two systems would peacefully coexist in the postwar world. To Browder, the logical conclusion was that the CPUSA had to change its orientation from seeking to destroy capitalism to supporting the conciliatory policy of the Roosevelt administration against those whose visceral hostility to the Soviet Union represented the

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Excerpt

[More information](#)

Politics of the Early Cold War | 9

far greater danger. Declaring that a socialist America was not on the post-war agenda, Browder argued for the dissolution of the CPUSA as an independent political party and its reconstitution as an advocacy association that would function within the two-party system.

Browder's plan met with some resistance inside the Communist movement, but his assurance that he had the support of the Soviet Union dampened dissent. In fact, his proposal had caused disquiet in Moscow, not only because it called into question key elements of Marxist-Leninist theory, but also because Joseph Stalin had no intention of abandoning the class struggle or remaining an American ally. In the spring of 1945, Jacques Duclos, a French Communist only recently returned from Moscow, published an article in a Paris magazine denouncing Browder. When he refused to repudiate his views, the longtime leader of the CPUSA was expelled from the party he had dominated for more than a decade. Browder later expressed his belief that his expulsion marked the opening volley of the oncoming Cold War, a signal sent by the Soviet Union to Communist parties in the West that the end of World War II would mark a resumption of the class war in capitalist nations. After the dissolution of the USSR, newly opened Russian archives showed that Duclos had, as suspected, not written the article published in his name. It was simply a translation of a scathing critique of Browder's policy published in a secret political journal that circulated only among the elite of the Soviet Communist Party. The only text added comprised a few paragraphs inserted to provide not very convincing justification for Duclos, a French Communist leader, commenting on American Communist policy.

While a handful of observers sensed the meaning of the Duclos article, most Americans were oblivious to what was transpiring in the Communist milieu. It was Soviet actions over the next few years, particularly in Eastern Europe, that brought home the realization that the end of the most destructive conflict in human history had not ushered in an era of international amity. While tensions between the United States and the USSR ratcheted up over events in Poland, Berlin, and Czechoslovakia, former British prime minister Winston Churchill warned of an iron curtain descending through the middle of Europe, and the Truman administration launched the Marshall Plan to rebuild Western Europe's capitalist infrastructure.

With growing concern about Soviet intentions and increasing nervousness about its military capabilities, highlighted by news of its explosion of an atomic bomb in 1949, American policy makers struggled to define a

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John Earl Haynes and Harvey Klehr

Excerpt

[More information](#)

10 | Introduction

new foreign policy and build public support for it. In the late 1940s and early 1950s charges of Soviet espionage at several highly publicized spy trials as well as a series of congressional hearings shaped public perceptions of the Cold War. To most of the American people the trials drove home the point that the United States faced not only a dangerous foreign enemy but also a serious issue of domestic security.

That Communists disliked the American system of government was no secret. Ever since its founding in 1919, the American Communist movement had maintained a steady drumbeat of criticism of American political, economic, and cultural institutions. The manifesto of the American Communist Party's 1919 founding convention declared, "Communism does not propose to 'capture' the bourgeoisie parliamentary state, but to conquer and destroy it. . . . It is necessary that the proletariat organize its own state *for the coercion and suppression of the bourgeoisie*" (emphasis in the original). For a brief period between 1936 and 1939 and again from mid-1941 to 1945, the CPUSA had adopted a patriotic pose, diligently searching for American roots and forebears and trumpeting its devotion to the American dream. The party happily proclaimed that "Communism Is Twentieth Century Americanism" – until a secret directive from Moscow expressing disapproval of so chauvinistic a slogan led to its quiet retirement. With the exception of those interregnums, the CPUSA made few bones about its distaste for both capitalism and democracy and its desire to replace them with a society modeled on Soviet Russia.

There had been periodic hearings during the 1920s and 1930s at which congressional inquisitors had elicited from Communist witnesses fervent paeans of praise for Soviet "democracy" and denunciations of alleged American repression, while also hearing from others often wildly exaggerated charges about the role that Communists were playing in American life. During the last half of the 1930s, a special House committee, named for the rabidly anti-New Deal Democratic representative from Texas, Martin Dies, heard from a mixture of sensible and alarmist anti-Communist witnesses about Communist efforts to infiltrate a variety of American institutions, particularly the labor movement and various New Deal agencies.

Congressional hearings, however, were performances of a sort rather than trials. While witnesses were under oath and could be questioned by congressmen or committee staff, there was no judge present to force a reluctant witness to speak on the spot, and evasive answers or even evading questioning altogether was frequent. Enforcing testimony through