

The Case of Morton Sobell: New Queries from the Defense

Morton Sobell went on trial with Julius and Ethel Rosenberg in 1951. His crime was judged less serious than theirs, and when the Rosenbergs were sentenced to die, Sobell was given 30 years. He is now in the 17th year of his term.

Last week lawyers for Sobell attempted to persuade a federal judge to authorize a new hearing. Six past attempts have been dismissed by the courts, chiefly on technical grounds. The new effort is both broader and more sensational: the lawyers claim that new evidence is available demonstrating that the government manufactured and misrepresented the evidence which sent the Rosenbergs to their deaths.* Sobell was not only caught in the same legal web as the Rosenbergs but is also their emotional legatee. Both legally and emotionally, his case is imbedded in theirs.

The main outlines of the government's complex case against the Rosenbergs can be briefly summarized. Julius and Ethel Rosenberg were the pivots of a huge espionage ring operating for the benefit of the Soviet Union. Ethel Rosenberg had a brother, David Green-

glass, who worked during the war as a machinist at Los Alamos, where the first atomic bombs were constructed. In November 1944, Julius Rosenberg began soliciting Greenglass for verbal information about the work at Los Alamos; Greenglass cooperated. In January 1945 Greenglass came to New York on a furlough. He drew a sketch for Julius of a high-explosive lens mold being developed at Los Alamos. Later, during the same visit, Greenglass came again to the Rosenbergs' home and was introduced to a woman who Julius said might appear in New Mexico as a courier to collect more information. Julius and Ethel went into the kitchen and cut up a jello box. Half they gave to Greenglass; the other half, they said, would be carried as a recognition signal, by whomever was sent as a courier.

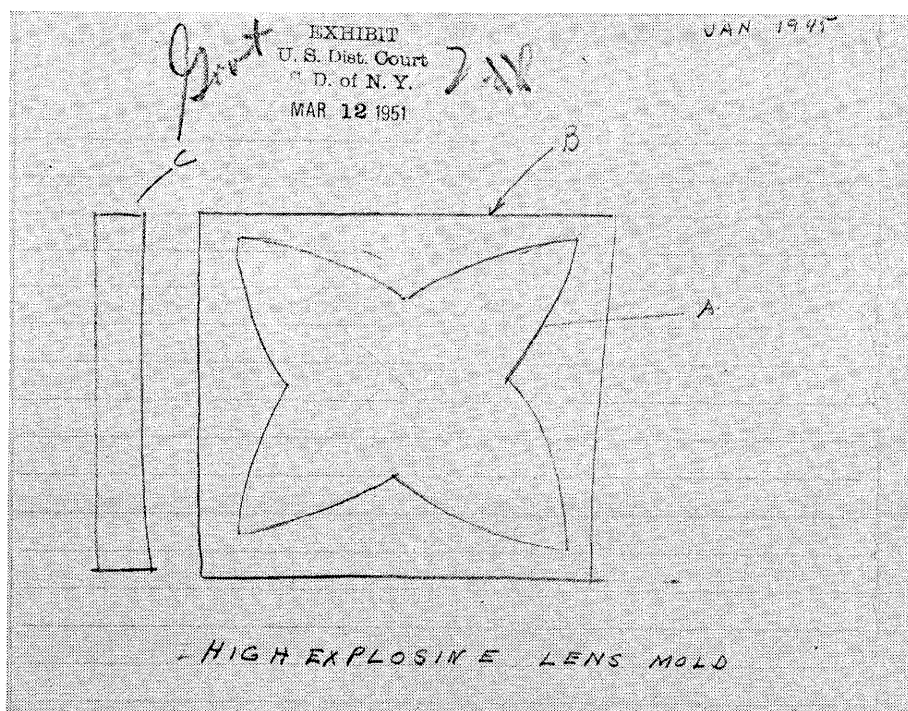
On 2 June 1945, the government's case continues, Harry Gold arrived in Albuquerque (where the Greenglasses now had an apartment) with, among other things, the other half of the jello box and an envelope containing \$500. Earlier in the day he had met Klaus Fuchs in Santa Fe and had obtained material from him. Gold did not know

the Rosenbergs, but had been dispatched by Yakovlev, a Russian agent, with instructions to contact Greenglass, exhibit the jello box, say "I come from Julius," and collect the goods. On his first visit to the Greenglass apartment he found no one home; he spent the night in a local rooming house. In the morning he registered at the Hilton Hotel in Albuquerque; then he went again to the Greenglass apartment, where he performed the identifying ritual. Greenglass said that he didn't have the atomic bomb material ready just then; would Harry Gold (who called himself "Dave from Pittsburgh") come back later? When Gold returned, Greenglass gave him two sketches, one of a lens mold, the other of an experiment being performed with the mold. Gold then returned to New York and promptly turned the material over to Yakovlev, who said it was of great importance. On another furlough in New York in September 1945, Greenglass told Julius: "I think I have a pretty good . . . description of the atomic bomb." He then furnished his brother-in-law with a cutaway drawing of the bomb and a 12-page description of how it worked.

Julius Rosenberg denied the story in its entirety. He said he had neither asked Greenglass for information on the bomb nor taken part in any espionage activities on behalf of the Soviet Union. Despite high-level assurances from the Justice Department until the very day of their execution that cooperation would be rewarded, the Rosenbergs died maintaining their innocence.

Morton Sobell was linked to the Rosenbergs solely by the testimony of Max Elitcher. Elitcher and Sobell were friends and colleagues. They both graduated from City College of New York in 1938, as had Julius Rosenberg. The two lived together in Washington during the war, when both were employed as engineers by the Navy Bureau of Ordnance. After going separate ways for a time, and marrying, both ended up as employees of the Reeves Instrument Company in New York. They lived in adjacent homes in Queens.

Elitcher's testimony was limited to statements that at various times Sobell and Rosenberg (each mentioning the other) had encouraged him to supply them with data from various defense



* The claims rest heavily on intensive research by two New York writers, Miriam and Walter Schneir, whose study of the Rosenberg case, *Invitation to an Inquest*, was published by Doubleday last year.

projects on which he worked and to suggest names of promising candidates for espionage. He said that Sobell had recruited him into the Young Communist League in 1941. He also described one evening when, arriving at Sobell's New York home after driving

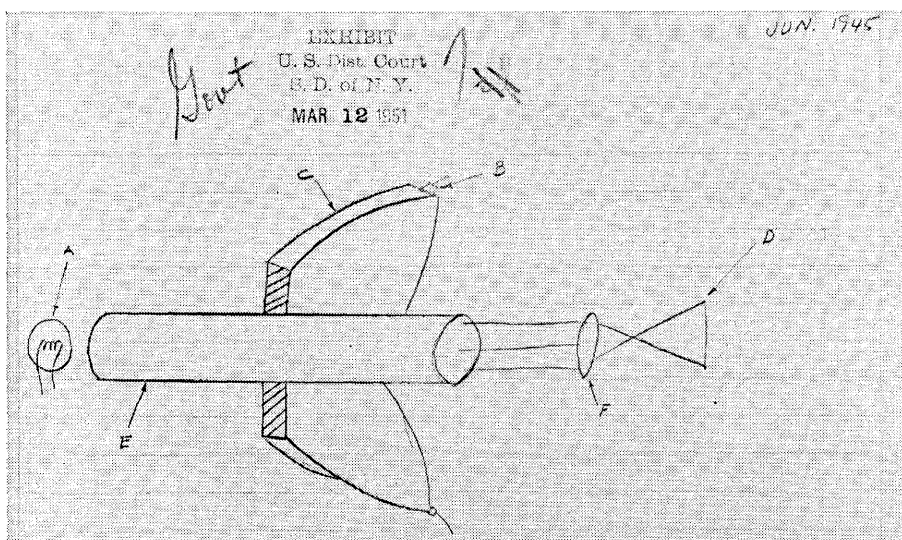
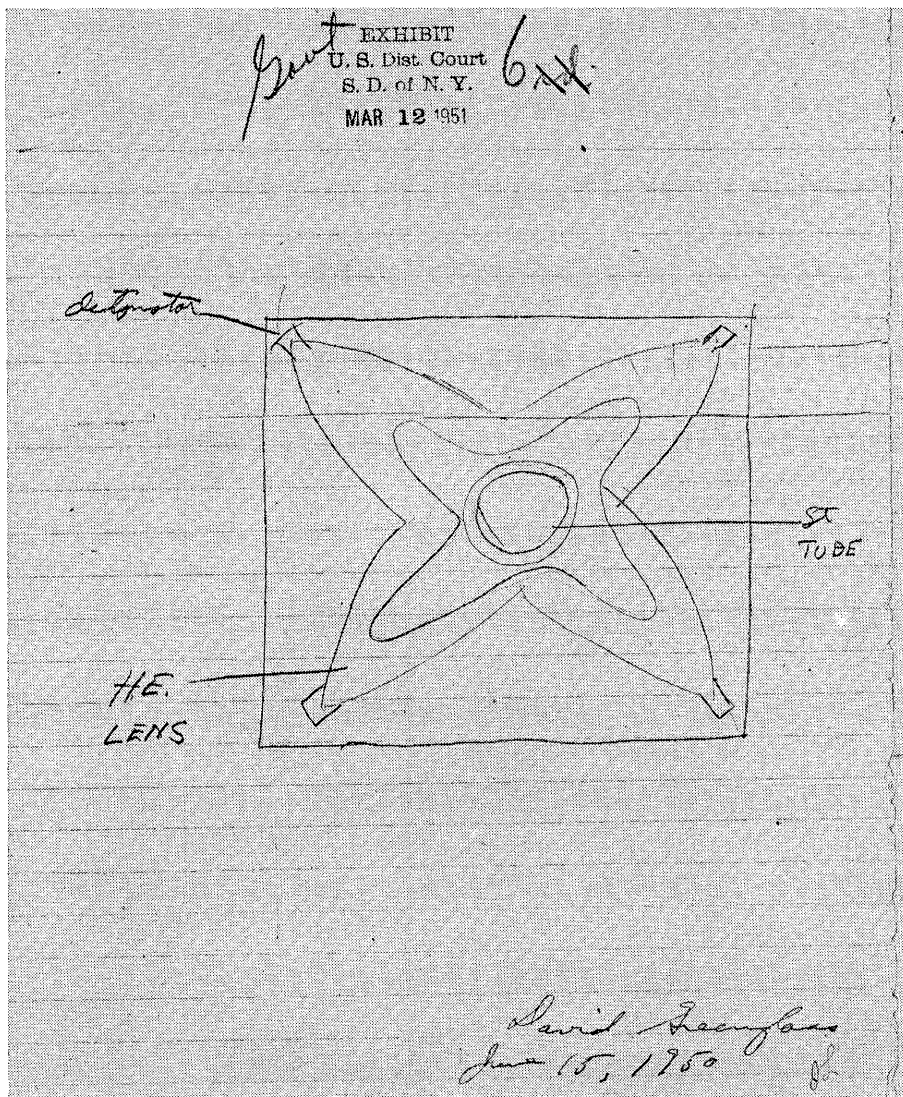
from Washington, he told Sobell that he believed he (Elitcher) was being followed; Sobell became alarmed and subsequently asked Elitcher to drive with him to Manhattan. Sobell took with him something that looked to Elitcher like a 35-mm film can. When

they arrived in Manhattan at a spot that seemed to be near where the Rosenbergs lived, Sobell left the car. When he returned, he no longer had the film can.

It was never clear exactly why Sobell was on trial in the first place, or why he was on trial with the Rosenbergs. He was not charged, as they were, with transmitting atomic secrets. He was charged with conspiracy to commit espionage. His lawyers attempted to obtain from the government a bill of particulars listing the charges against him and citing any overt acts in which he was thought to have participated; these were not included in the indictment. The lawyers were unsuccessful.

Apart from Elitcher, the only mention of Sobell in the trial came in government allegations that Sobell had fled to Mexico when the FBI began rounding up atomic spies. As further evidence of guilt, the government said Sobell had traveled about Mexico using aliases, and that he was deported.

Sobell pleaded not guilty to the charge of participating in an espionage conspiracy but did not take the stand at his trial. His version of the Mexican trip has been outlined in affidavits filed subsequently. Sobell says that the trip was a long-planned family vacation. Shortly after his arrival, news of the arrest of his friend Julius Rosenberg appeared in the press. Sobell panicked: he had many left-wing ties and associations and he felt that the arrests were omens of a witch-hunt that could easily reach to him. He traveled to the coast under various aliases, considering the possibility of taking his family from Mexico and settling in another country. He changed his mind and returned to Mexico City, where his family was living in an apartment rented in their true name. He was not deported from Mexico but was forcibly taken from his apartment by unidentified Mexican police officials who deposited him at a



The sketches on pages 1501-1503 were allegedly drawn by David Greenglass for the FBI at the time of his arrest in 1950 (see text). He said they were replicas of materials he had transmitted to Julius Rosenberg and Harry Gold in 1945. Exhibit 2 represents a high-explosive lens mold; Greenglass said he gave it to Rosenberg in January 1945. Exhibits 6 and 7, representing a lens mold and a lens mold experiment, were said to have been given by Greenglass to Harry Gold during his visit to Albuquerque in June 1945. Exhibit 8, the "A-bomb" was drawn for Rosenberg by Greenglass in September 1945.

customs office in Texas where he was arrested.

The government's case against the Rosenbergs and Sobell rested principally on two things: the testimony of Gold, Greenglass, and Elitcher; and two pieces of tangible evidence, the sketches (reproduced here) and a registration card for Harry Gold at the Hilton Hotel certifying his presence in Albuquerque. There were innumerable related issues—money changing hands, bank deposits, passport photos, flight—but the case was sealed by that testimony and those exhibits. It is worth noting, therefore, that all of them have certain peculiarities.

Briefly put, Gold, Greenglass, and Elitcher all had reasons for cooperating with the government during its preparation of the case against Sobell and the Rosenbergs. Gold, whose other distinctions included confessed perjury, had already been convicted of extensive espionage activities of which the atom spy business was only a small part. He was a federal prisoner at the time of the Rosenberg-Sobell trial. In addition, he seems to have had particular psychological qualities, perhaps best summarized as self-hate, which made him almost exhibitionistic in disclosing his role: In a pretrial statement, for instance, he said he wanted to "indisputably establish the authenticity and the enormity of my crime." "I must be punished and punished well for the terribly frightening things that have been done." "There shall be no quivering, trembling appeals to sympathy or fervid pleas for mercy. . . . The manner in which all of the pieces of the giant jigsaw puzzle, of which I was a part, are falling ever so gloriously into place . . . has added a tremendous zest and sense of achievement to my life."

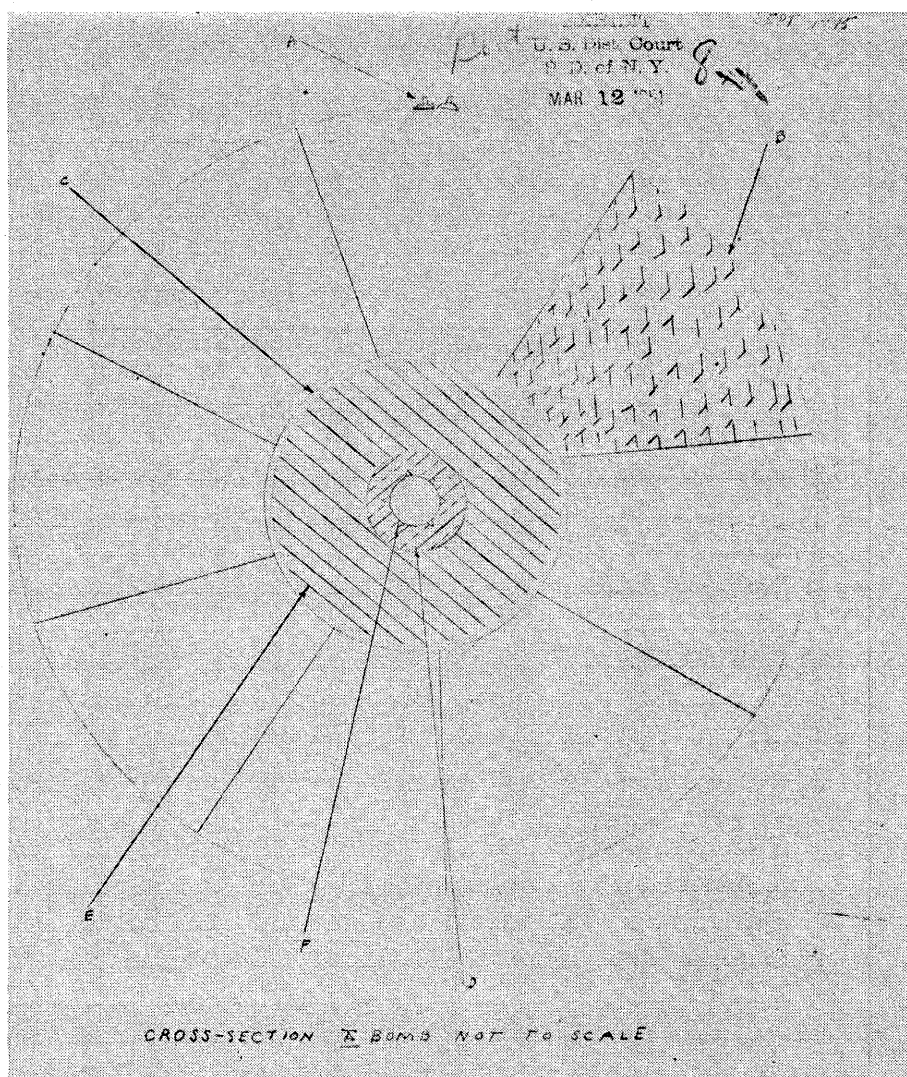
Greenglass, also tried for espionage, was awaiting sentencing at the time of the trial. Elitcher was not a defendant in any proceedings, but, like Greenglass, who admitted to having stolen uranium from Los Alamos, he had a secret of his own. Elitcher had perjured himself by omitting acknowledgment of membership in the Young Communist League from an application for federal employment. He was in trouble with the FBI and he knew it. At the trial he said he had long been fearful about being discovered. Gold and Greenglass were in the government's hands for a long time prior to the trial. Tape-recorded interviews between Gold and his attorneys dating from the period before the trial came to light as a re-

sult of the Schneirs' research; these records are part of the new evidence that Sobell's lawyers have turned over to the judge. The early interviews omit any mention of the events he later described in such detail; there is no David Greenglass, no jello box, no "I come from Julius." There is not even a trip to Albuquerque.

The attorneys' case for a new hearing for Morton Sobell, if not for his innocence, does not rest on the credibility of the witnesses. Even accepting doubts about their motivation and stability, liars sometimes tell the truth and spies become patriots. More important than the personal histories is the physical evidence. First, the hotel registration card. It is the only item besides the testimony of Gold and Greenglass that establishes Gold's presence in Albuquerque at the time he was alleged to have received the sketches from Greenglass. Simply put, Sobell's defense now claims the card is a forgery. Suspicions were first aroused (in the course of the Schneirs' research) by

certain peculiar markings of the card itself, and by the fact that the original (now destroyed) was never made a part of the trial record. All subsequent analysis has been of a photostat that was introduced into evidence. The allegation that it is a forgery is now supported by a report from Elizabeth McCarthy, a well-known document and handwriting expert, from whom both the Schneirs' and Sobell's attorneys requested an opinion. Without the card, the entire case falls apart: it is the only item which links Gold, the Greenglasses, the Rosenbergs, the Russians, and some documentary evidence that a crime occurred. Without those links, there is no proved conspiracy for Morton Sobell to have been a part of.

More important than the hotel card to the emotional case against Sobell and the Rosenbergs, if not to the legal case, are Greenglass's sketches. The sketches are *not* the drawings that Greenglass allegedly gave Gold and the Rosenbergs. The Rosenberg case never had a corpse: no documents, films, or re-





Morton Sobell

ports were ever said to be missing. They are replicas drawn by David Greenglass for the FBI at the time of his arrest in 1950.

According to the government, Greenglass's sketches represented "the very bomb itself." They were characterized as "the atomic bomb secret." Two witnesses were called to support this view. The first was Walter S. Koski, a professor of physical chemistry at Johns Hopkins. During the war Koski worked at Los Alamos on implosion research and was particularly concerned with the development of high-explosive lenses. He testified that sketches number 2 and 6 were substantially accurate replicas of sketches he had made during the war and delivered, for construction, to the machine shop where David Greenglass worked. Koski said that the sketches were not "quantitative," but did illustrate the "important principles involved"—namely, "the use of a combination of high explosives of appropriate shape to produce a symmetrical converging detonation wave." Koski also said that a scientific expert could learn from the sketches roughly what was going on at Los Alamos, and that they could benefit a foreign power. Koski did not testify on the crucial exhibit, the "cross section of the A-bomb", exhibit 8.

Government exhibit 8 was introduced at the trial in a particularly charged atmosphere. The courtroom was cleared of all but jury and press. It was shown to, and discussed by, only one witness. Then, at the request of Rosenberg's lawyer Emanuel Bloch, the drawing—together with a 12-page descriptive statement from David Green-

glass—was impounded. A statement by the court that the impounded material would be available to counsel in any post-trial proceedings was also impounded. Bloch apparently acted in the belief that the sketch represented the highest national secret. (Bloch's trial strategy was based on the premise, discarded by Sobell's current counsel, that an act of espionage had occurred between Gold and Greenglass but that the Rosenbergs had nothing to do with it.) His belief was furthered by prosecution statements that the AEC had declassified the material for trial purposes only and that after the trial it would be reclassified. It never was reclassified, and, under the law, could not have been. It did, however, remain impounded—locked up in the courthouse apart from the other trial records—until this summer, when the efforts of Sobell's lawyers to bring it out into the open were finally successful.

Although the government had announced at the opening of the trial that witnesses would include atomic experts Harold Urey, George Kistiakowsky, and J. Robert Oppenheimer, the only witness that appeared in connection with the sketch was John Derry. (Urey recently stated that the government had never asked him to appear in the case.) During the war Derry was liaison officer between General Leslie Groves, military chief of the Manhattan Project, and the Los Alamos station. Derry testified that the sketch demonstrated "substantially and with substantial accuracy" the principle involved in the operation of the 1945 atomic bomb. A key portion of his testimony ran as follows:

Saypol (prosecuting attorney): From that testimony and from that exhibit . . . can a scientist and can you perceive what the actual construction of the bomb was?

Derry: You can.

Saypol: To a substantial degree?

Derry: You can.

Saypol: Does the information that has been read to you, together with the sketch, concern a type of atomic bomb which was actually used by the United States of America?

Derry: It does. It is the bomb we dropped at Nagasaki, similar to it.

Derry also testified that he had seen many sketches of the bomb while he was on his periodic visits to the project and that exhibit 8 reflected a sketch of the bomb when it had already been substantially perfected.

Whatever else might be said about Derry's testimony, one thing that is certain is that his analysis was the basis, if not of the conviction, then of the

execution. At the sentencing, trial judge Irving Kaufman told the defendants:

I believe your conduct in putting into the hands of the Russians the A-bomb years before our best scientists predicted Russia would perfect the bomb has already caused, in my opinion, the Communist aggression in Korea, with the resultant casualties exceeding fifty thousand and who knows but that millions more may pay the price of your treason. Indeed by your betrayal, you have undoubtedly altered the course of history to the disadvantage of our country. . . .

Two years later, denying an appeal for clemency filed on the eve of the execution, President Eisenhower repeated the theme:

I can only say that by immeasurably increasing the chances of atomic war, the Rosenbergs may have condemned to death tens of millions of innocent people all over the world. The execution of two human beings is a grave matter. But even graver is the thought of the millions of dead whose deaths may be directly attributable to what these spies have done.

It is unlikely that these words would be pronounced today. Russian technological competence is conceded; the public, particularly through its exposure to the space program, is perhaps less susceptible to the view that massive technological achievements can be cap­suled in a single drawing by a high-school graduate; even spies have lost their novelty, being exchanged between nations almost as casually as children swap trading cards.

But what of the charges? When the sketch was released, Sobell's lawyers took it to some of the scientists who worked at Los Alamos. At last week's hearing, affidavits were submitted from Henry Linschitz, professor of chemistry at Brandeis, and Philip Morrison, professor of physics at MIT, who were also present during the proceedings. Morrison held a key position in the work at Los Alamos, concentrating on the nuclear assembly. He helped put together the test bomb exploded at Alamogordo and the combat bomb which was flown from Tinian. Linschitz headed one of the research sections concerned particularly with interactions of detonation waves and flow and shock phenomena associated with implosions. He was in charge of the section for which Greenglass worked as a machinist.

According to Linschitz, "The sketch . . . and accompanying transcript give a garbled, ambiguous, and highly incomplete description of the plutonium bomb of 1945." The drawing "is correct in its most vague and general aspects that explosive 'lenses' were used

to achieve implosion of a core containing plutonium and beryllium components, the overall system being arranged in an essentially spherically symmetrical configuration." But Linschitz says that the drawing is incorrect in crucial details and that "essential information needed to make clear the 'principle' of initiating a chain reaction in plutonium is *not* given. . . ." Linschitz's position is that by even asking the questions about "secrets" and "principles" about an immense technological enterprise the prosecution was on a hopelessly wrong track:

It is also astonishing, but critically relevant . . . that despite so many authoritative statements to the contrary by scientists over the past two decades, the layman still clings to the misconception that there is a "secret" or key "formula" for the construction of an atomic bomb. . . . At the risk of being tedious, it must be repeated until it is definitely and finally recognized that the construction of an atomic bomb, assuming the generally widespread distribution of fundamental knowledge prevailing in, say, 1941, involved no single "secret" in the scientific sense. It did involve a highly complex set of technical tricks, devices and processes, combined of course with an immense and versatile industrial capability. . . . The statement made by Judge Kaufman, when passing sentence on the Rosenbergs, regarding the technical importance of the information conveyed by Greenglass has no foundation in fact. Rather it expresses a misunderstanding of the nature of modern technology, a misunderstanding which, in this case, has had tragic consequences.

Morrison, in a separate affidavit, characterized the sketch as a "some-

what schematized cross-section, which might be called a pedagogical descriptive picture." He described Greenglass's testimony as "confused and imprecise . . . both qualitatively and quantitatively incorrect and misleading." Morrison addressed himself particularly to the testimony of John Derry.

If, in truth, Major Derry had occasion to see the actual atomic bomb under development at Los Alamos "many times" as he stated, he ought to have added "and it did not look like that." . . . Major Derry was not justified in saying, when asked if he understood the entire subject matter, "Yes, sir, I did." . . . His later testimony showed he was not at all knowledgeable with respect to neutrons and beryllium. He was also in error when he answered in the affirmative the question "Can a scientist and can you . . . perceive what the actual construction of the bomb was?" (And, he was even more misleading when he answered a subsequent question "Does the sketch . . . concern a type of atomic bomb . . . actually used . . .") Answer: "It does. It is the bomb we dropped at Nagasaki, similar to it.") Say rather it was a caricature of the bomb.

In another affidavit, Harold Urey, one of the few prominent scientists active in opposing the execution of the Rosenbergs, associated himself with the statements by Morrison and Linschitz.

It is clear that the issues raised by Sobell's attorneys bring forth more new questions than they answer. The lawyers are saying more than that the government was mistaken: they are saying that the government made its mistakes deliberately. If they are right

—if the registration card is forgery, and if the government willfully misrepresented Derry as an expert and avoided calling in the real experts who might have offered conflicting testimony—the suspicion is strong that the defendants were framed. Who, then, participated in the frame-up, and why?

At this point, there is no definite evidence that to accept the version of the case proposed by the defense would not be merely to substitute one fantasy for another. At the preliminary hearing, the government denied the charges but offered no proof in support of its denial: to have done so would have been to concede that a factual issue existed. This in turn would have made it binding on the judge to grant Sobell's request for an "evidentiary hearing." The government opposes a hearing and is concentrating on arguing that, for procedural reasons, Sobell is not entitled to one. If a hearing is granted, the issue before the judge will be whether Sobell's conviction was "tainted" by prosecution fraud; if fraud is proved, the conviction would be thrown out, though Sobell would then be subject to a new trial, if the government wished. All subsequent stages, including the judge's ruling on a hearing, carry with them the possibility of appeals. Conspiracy theories that involve the government are difficult to accept; nonetheless they are also apt to linger.—ELINOR LANGER

Exit Goldman, Enter Roche: Can LBJ and Intellectuals Be Friends?

The circumstances surrounding the exit of historian Eric P. Goldman from the White House staff have created a bigger stir in Washington than any other resignation that has occurred during the Johnson Administration. Others who have resigned their jobs have been dissatisfied with aspects of their relationship with President Johnson, but none has made his discontent as publicly known as Goldman has.

Goldman, who was hired 2½ years ago to act as the President's liaison to the intellectual community, submitted

his resignation to the President in August. Johnson likes to announce such departures to suit his own needs or desires, not those of retiring officials. Unable to force the White House to announce his resignation, Goldman took the unusual step of announcing it himself.

If Goldman had merely said that he was resigning because he wished to return to Princeton, no one would have noticed his leaving very much. But he did more—he called together a group of newspaper reporters and held a back-

ground discussion with them about the circumstances of his departure. Goldman made it plain that he did not find the job of tame White House intellectual an easy one. In effect he admitted he had given up on his effort to achieve a rapprochement between the President and the intellectuals.

Goldman emphasized that he thought both sides shared the blame—the intellectuals did not give the President sufficient credit for his great intelligence and his humanitarian instincts while the President distrusted the intellectuals, especially those from the East Coast. Goldman also exploded what proved to be one of the loudest detonations in his disclosure when he announced that he planned to write a book on the Johnson Administration which will be published by Alfred A. Knopf next fall.

President Johnson was quick to excommunicate the apostate. On the same day that the Goldman disclosures were published, White House press secretary