

Maurice Halperin

Maurice Hyman Halperin (1906–1995) was an American writer, professor, diplomat, and accused Soviet spy (NKVD code name "Hare").

Biography

Maurice Hyman Halperin was born on March 3, 1906, in Boston, Massachusetts.^{[1][2]} In 1927, he received an A.B. from Harvard College, in 1939 an MA from the University of Oklahoma, and in 1931 a doctorate from the Sorbonne.^{[1][2]}

Career

Academics

In 1930, Halperin lectured at the Sorbonne while studying there.^[2]

In 1935, Halperin traveled to Cuba with the League of American Writers to investigate possible human rights abuses. Sometime during this period, Halperin joined the Communist Party of the USA (CPUSA).

Halperin taught at the University of Oklahoma, with summer 1941 as visiting professor at the University of Florida.^[2]

Government

In late summer 1941, Halperin began working for the US federal government as a Latin American specialist.^[2] From 1941 to 1945, served as division chief (Latin America) in the Office of the Coordinator of Information, soon the Research Division of the Office of Strategic Services (OSS),^[2] and served as special assistant to Duncan Chapin Lee.^[1]

During this period, he may have become an espionage agent and agreed to provide intelligence for the Joseph Stalin-era Soviet intelligence service, the NKVD. Halperin's alleged NKVD codename was "Hare." He became a member of the Golos spy network (operated by the NKVD's chief of American operations Gaik Ovakimian).

With access to the OSS cable room, Halperin could secure copies of secret U.S. reports from any part of the world. Through the Golos spy network, Halperin provided Soviet intelligence with a large quantity of sensitive U.S. diplomatic dispatches, including reports from Ambassador John Gilbert

Maurice Halperin	
Born	Maurice Hyman Halperin <div>March 3, 1906</div> <div>Boston, Massachusetts</div>
Died	February 9, 1995 (aged 88) <div>Royal Columbia Hospital, Vancouver, British Columbia, Canada</div>
Nationality	American
Education	Harvard College, University of Oklahoma
Alma mater	Sorbonne
Occupation(s)	scholar, intelligence offer, diplomat
Employer(s)	OSS, State Department, Boston University, Simon Fraser University

Winant in London on the position of the Polish government-in-exile towards negotiations with Stalin, Turkey's foreign policy toward Romania, the State Department's instructions to the U.S. Ambassador to Spain, the U.S. embassy in Morocco's reports on that country's government, reports on the U.S. government's relationship with Vichy and Free French factions and persons in exile, reports of peace feelers from dissident Germans passed to the Vatican, U.S. attitudes towards Josip Broz Tito's Communist Front activities in Yugoslavia, and discussions between the Greek government and the United States regarding Soviet ambitions in the Balkans. Halperin also distorted OSS reports with false information in order to reflect the views of Stalin, the Soviet Union, and the Communist Party of the United States.

After the OSS was dissolved in 1945, Halperin transferred to the State Department and worked as an adviser to United States Secretary of State Dean Acheson, again on Latin American affairs.^[2] Halperin was an advisor to the United Nations at the first conference in San Francisco (with Alger Hiss serving as acting secretary general). He helped establish a Hebrew language service for the UN, beamed to Palestine.^[2]

In 1946 (or 1949^[1]), Halperin resigned from the State Department to take the position of chair of Latin American studies at Boston University.^[1]

HUAC investigation (1948)

On July 31, 1948, ex-Soviet spy Elizabeth Bentley testified under subpoena before the House Un-American Activities Committee and related details which she first shared with the FBI in 1945.^[2] In 1945, Bentley, who had inherited the Golos network, defected from the Soviet underground and sought out the Federal Bureau of Investigation. During questioning, Bentley told FBI agents that from 1942 to 1944, Halperin at OSS had delivered "to Mary Price and later to myself mimeographed bulletins and reports prepared by OSS on a variety of topics and also supplied excerpts from State Department cables to which he evidently had access." Bentley added that "some time early in 1945 'JACK', [Soviet agent Joseph Katz]^[3] the Russian contact at that time, told me that Halperin had been accused by General William J. Donovan, the head of OSS, of being a Soviet agent..."^[4] The next day, the FBI notified Harry S. Truman's White House that "according to a "highly confidential source," among those "employed by the government of the United States" who "have been furnishing data and information to persons outside the Federal government, who are in turn transmitting this information to espionage agents of the Soviet government," was "Maurice Halperin, Office of Strategic Services." Subsequent surveillance of Halperin disclosed that he was in contact with Nathan Gregory Silvermaster, Lauchlin Currie, Philip and Mary Jane Keeney, and others.

SISS investigation (1953)

In 1953, after Soviet cables were secretly decrypted by U.S. counter-intelligence, Maurice Halperin was called before the Senate Internal Security Subcommittee to defend himself on charges of espionage, at which time he lost his teaching position at Boston University.^[1] Halperin denied the charges, but nevertheless fled to Mexico and taught at the National University of Mexico.^[1] To avoid

extradition from Mexico, Halperin moved to the Soviet Union, where he studied and taught.^[1] Among the friends he made there was the British defector, Donald Maclean as well as Cuban revolutionary leader Che Guevara.

Remaining years

Disenchanted with communism in the Soviet Union, Halperin accepted Guevara's invitation to come to Havana in 1962. There, he consulted to the Ministry of Trade in the Fidel Castro government for five years and taught at the University of Havana.^[1] Political tensions forced him to leave for Vancouver, British Columbia, Canada. In Vancouver, he became a political science professor at Simon Fraser University, and wrote several books critical of Castro's government and the socio-political situation in Cuba.^[1]

Personal life and death

Halperin married and had two surviving children.^[1]

Maurice Halperin died age 88 on February 9, 1995, of a stroke at the Royal Columbia Hospital just outside Vancouver, Canada.^[1]

Legacy

After Halperin's death, the release of the *Venona project* decrypts of coded Soviet cables, as well as information gleaned from Soviet KGB archives, revealed that Halperin was involved in espionage activities on behalf of the Soviet Union while serving in an official capacity with the United States government.^{[5][6][7]}

Works

Aside from an early literary study, Halperin published three books critical of Castro:

- *Roman de Tristan et Iseut dans la littérature anglo-américaine au XIXe et au XXe siècles* (1931)^[8]
- *Rise and Decline of Fidel Castro: An Essay in Contemporary History* (1972)^[9]
- *The Taming of Fidel Castro* (1981)^[10]
- *Return to Havana* (1994)^[11]

See also

- NKVD
- Elizabeth Bentley
- Silvermaster Group
- Perlo Group
- Venona project

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External links

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SUBJECT: Maurice Hyman HALPERIN

1. Maurice Hyman HALPERIN, a summary of whose background and activities appears as Attachment A, on 15 July 1957 made reservations through the "Mundus Tours" in Mexico for "four engineers" on KLM flight #652 leaving Mexico for Amsterdam at midnight on 20 July 1957. On the afternoon of 19 July 1957, the individual in the tourist agency with whom HALPERIN had made the original reservations advised KLM that three of the persons who would travel on the above reservations were Alfred K. STERN, Martha STERN, and Robert STERN. The fourth reservation was cancelled. The STERNS had previously obtained fraudulent Paraguayan passports, alleging that they were citizens of that country. These passports have been declared void by the Government of Paraguay. We do not know what part, if any, HALPERIN played in obtaining the passports, but we do know that he was so intimately associated with the STERNS and their affairs that it would be surprising if he were not involved in the passport deal. Martha Dodd STERN and Alfred K. STERN were indicted by a Federal Grand Jury in the Southern District of New York on 9 September 1957 on a charge of conspiring to obtain and transmit to the USSR information relating to the national defense of the United States. The STERNS continued directly behind the Iron Curtain, where they have remained.

2. Considerable publicity resulted from this escape of the STERNS. This publicity also involved a number of American Communists then residing in Mexico. The attached clippings (Attachment C) list Maurice HALPERIN in this group.

3. In September 1958 the Mexican Government started deporting American Communists. According to the press, among those listed for deportation was Maurice HALPERIN. HALPERIN applied for a U.S. passport on 26 July 1958. He

and his wife obtained their passports at the American Embassy on 26 August 1958 and departed Mexico on 13 October 1958. They went behind the Iron Curtain and are residing in Moscow. Our latest information indicates that HALPERIN is working for the Soviet Government and is also in the process of writing a book.

Attachments:

- A - Summary of HALPERIN's background and activities.
- B - Newspaper stories regarding HALPERIN's dismissal from Boston University.
- C - Newspaper stories regarding activities of American Communists in Mexico.

Attachment A

SUBJECT: Maurice Hyman HALPERIN

1. Maurice HALPERIN received a Bachelor of Arts degree from Harvard University, Cambridge, Massachusetts, in 1926 in the field of Romance Languages, and a Master of Arts degree from the University of Oklahoma, Norman, Oklahoma, in 1929, also in the field of Romance Languages. In 1931 he received a Doctor of Philosophy degree in the field of Comparative Literature from the University of Paris, Paris, France. Early in his career HALPERIN developed an intensive interest in the civilization of Mexico. Prior to 1941 he made ten trips to Mexico and spent the equivalent of two years in that country.

2. HALPERIN was a professor at the University of Oklahoma from 1931 to 1941. From 1941 to 1945 he was employed with the Coordinator of Information (COI) and the Office of Strategic Services (OSS) where he was assigned to the Latin American Division, becoming ultimately the head of that Division. The Latin American Section of the Research and Analysis Unit of OSS was transferred to the Department of State under Executive Order No. 9, 621, dated 20 September 1945. HALPERIN, as Chief of this Unit, was also transferred to the Department of State. On 31 May 1946 he resigned from the Department of State due to ill health. In June 1946 he obtained employment in New York City with the American-Jewish Conference, handling minority groups and acting as a liaison official between that organization and the United Nations at Lake Success, New York. In the summer of 1949, HALPERIN made a trip to South America and in the fall of 1949 he became head of the Latin American Regional Students Section at Boston University, College of Liberal Arts, Boston, Massachusetts. He was not officially dismissed from this position until 6 January 1954; however, he went to Mexico on 28 November 1953 where he remained until October 1958.

3. In 1941 the Oklahoma State Legislative Committee investigating subversive activities in the State of Oklahoma learned that HALPERIN had been a member of a group of individuals who traveled to Cuba in 1935 in what was described as a Communist-inspired "Commission of Investigation of Conditions in Cuba" arranged by Communist leaders and sponsored by front organizations. Upon landing in Cuba, the delegation was arrested by the Cuban authorities and expelled after one day of confinement on the ground that it was a subversive group and may have planned an uprising of some nature. The State Legislative Committee also learned that in 1940 HALPERIN had cashed a check for \$436.01 drawn on the Bank of Foreign Trade, Moscow, USSR; that he associated with individuals of known leftist tendencies; that he had submitted articles to the "New Masses" and the "New Republic"; and that he had been a member of the following organizations regarded by the Committee as leftist: Civil Liberties Committee, American Federation of Teachers, and Oklahoma Federation of Constitutional Rights.

4. On the basis of its findings, the Oklahoma State Legislative Committee recommended that HALPERIN be dismissed from his position at the University of Oklahoma. HALPERIN was subsequently discharged from the University on 8 September 1941, at which time he was on sabbatical leave. However, he was reinstated on 11 February 1942 and his sabbatical leave continued for the fiscal year ending 1 July 1942. It has been reported that this reinstatement was brought about by protests made by the Association of University Professors and that HALPERIN was reinstated without prejudice with the understanding that he would resign at the termination of his sabbatical leave in order that no undue hardship would be sustained in his efforts to find other employment.

5. Although the above information was known to appropriate officials of COI/OSS, it was felt at the time that the

explanations given by him in regard to his trip to Cuba and the check drawn on the Moscow Bank of Foreign Trade "exonerated" him.

6. In November 1945 Elizabeth Terril BENTLEY, an admitted former espionage courier, stated that she had become acquainted with HALPERIN in the latter part of 1942 through arrangements made by Jacob GOLOS, a known Soviet espionage agent who died on 27 November 1943. She further stated that HALPERIN supplied GOLOS with information to which he had access in his office, including mimeographed bulletins and reports prepared by OSS on a variety of topics and excerpts from State Department cables to which he had access. References to BENTLEY's contact with HALPERIN while he was employed by OSS are contained in BENTLEY's book "Out of Bondage" on pages 200, 210, 261, 263-266.

7. On 20 November 1953 HALPERIN was suspended without pay from his position of Associate Professor of the Latin American Regional Students Section at Boston University, College of Liberal Arts, after he refused on constitutional grounds to tell the U.S. Senate Internal Security Subcommittee whether he was ever a member of the Communist Party. This action was taken as a result of public disclosures on television of a letter from Mr. J. Edgar HOOVER to Mr. Harry H. VAUGHN dated 8 November 1945 and declassified on 16 November 1953 in which Mr. HOOVER stated that as a result of investigative operations, information had recently been developed from a highly confidential source indicating that a number of persons employed by the Government of the United States had been furnishing data and information to persons outside the Federal Government who in turn were furnishing the information to espionage agents of the Soviet Government. The letter linked HALPERIN with Harry Dexter WHITE, Dr. Gregory SILVERMASTER, and other government officials then suspected of espionage. HALPERIN had been

suspended previously by Boston University in March 1953 for refusing to answer questions of a Senate Internal Security Subcommittee hearing in Boston, but was reinstated after being reprimanded and severely censured. Copies of newspaper articles relating to HALPERIN's dismissal from Boston University are attached, as Attachment B. It will be noted that according to these articles HALPERIN and his family left their home in Massachusetts in the middle of the night without informing officials of Boston University of his departure. He was officially dismissed from the University on 6 January 1954.

8. After his arrival in Mexico, HALPERIN became a member of the American Communist Group in Mexico (ACGM) and was associated closely with Alfred K. STERN and his wife, Martha Dodd STERN, who had arrived in Mexico on 5 July 1953. Following the arrest of the Soviet agents, Jack SOBLE and his wife, Myra SOBLE, and Jacob ALBAM on 25 January 1957, it was disclosed that the STERNS had been implicated in Soviet espionage activity with Jack SOBLE. On 29 July 1957 the STERNS fled from Mexico to Czechoslovakia ostensibly to avoid being extradited to the United States to testify before a Special Grand Jury in regard to their association with Jack SOBLE and the "double agent" Boris MORROS utilized by the FBI in the Jack SOBLE case. An investigation of the way in which the STERNS had been able to leave Mexico clandestinely disclosed that their airplane reservations had been obtained for them by HALPERIN without disclosing to the airlines that they were to be used by the STERNS until the day before their departure. HALPERIN was very closely associated with the STERNS throughout this period and was intimately involved in their plans for escape.

9. The public disclosure of the assistance HALPERIN rendered the STERNS at the time of their flight from Mexico resulted in the dismissal of HALPERIN and his wife, Edith HALPERIN, from positions in Mexico City in which they were

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employed. Up to that time, Edith HALPERIN had been employed as a teacher by the American School Foundation, and HALPERIN had been employed by the Mexican Government in La Financiera Nacional, S. A., and at the National School of Political and Social Sciences of the University of Mexico. In addition, an ice cream company by the name of Cia Mistram S. A., in which HALPERIN and Noah SEBORER had held stock was liquidated by them in the summer of 1957. Noah SEBORER was a member of the ACGM with HALPERIN.

10. After the decision of the Supreme Court in the Kent and Dayton cases, HALPERIN conferred with his attorney and on his attorney's advice filed an application for a passport with the American Embassy in Mexico on 26 July 1958 (presumably his wife did also), and he and his wife were issued passports on 26 August 1958.

11. In August and September 1958, newspapers in the United States carried several articles about the American Communists in Mexico and the efforts being made by the Mexican Government to have them deported. (Copies of some of these articles are attached as Attachment C.) HALPERIN's name was among those mentioned by the press. When HALPERIN commenced making plans to leave Mexico he obtained airplane reservations in the name of another person in the same manner he had used when obtaining airplane reservations for the STERNs. The HALPERINs finally departed from Mexico on 13 October 1958. At the time of his departure, the Government of Mexico had his case for deportation under consideration.

12. We received information shortly after HALPERIN's departure from Mexico that he was employed in Moscow by the USSR. This was confirmed on 15 July 1960 when the HALPERINs appeared at the American Embassy in Moscow and presented their U. S. passports for renewal. HALPERIN stated that he had been in the USSR since December 1958 and that he is employed by the USSR Academy of Sciences where he is doing research in

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the foreign field, specifically, relating to undeveloped countries. It will be recalled that HALPERIN is something of an authority on Latin American affairs. Our information indicates that this probably is the field in which he is working at the present time. The Soviet Academy of Sciences is directly subordinate to the Council of Ministers.

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Maurice Halperin: From Sooner Subversive to Soviet Spy

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Abstract

Maurice Halperin was a University of Oklahoma (OU) professor in the late 1930s and early 1940s when the state's governor and legislature began actively pursuing Communists in higher education. After Halperin fell under suspicion, he left the university for a job with the federal government's wartime intelligence agency. Still under a cloud of suspicion, Halperin eventually fled the country, never to return. Shortly after the Cold War ended, evidence... [Read More](#)

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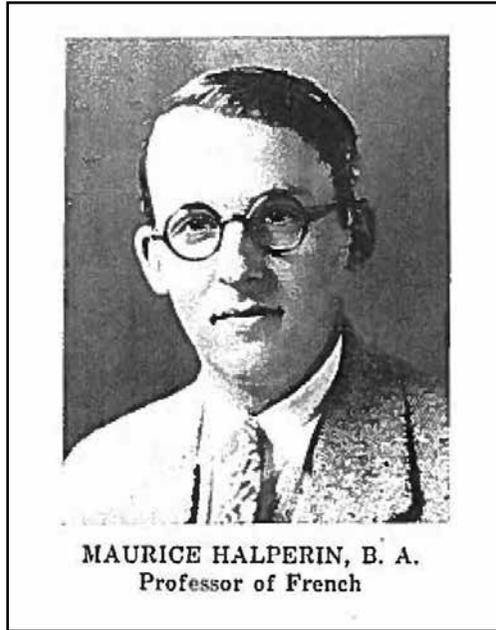
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Maurice Halperin: From Sooner Subversive to Soviet Spy



*By Landry Brewer**

Maurice Halperin was a University of Oklahoma (OU) professor in the late 1930s and early 1940s when the state's governor and legislature began actively pursuing Communists in higher education. After Halperin fell under suspicion, he left the university for a job with the federal government's wartime intelligence agency. Still under a cloud of suspicion, Halperin eventually fled the country, never to return. Shortly after the Cold War ended, evidence emerged verifying the allegations made by his accusers that, during the 1930s, Maurice Halperin was a covert Oklahoma Communist who later betrayed his country by committing espionage for the Soviet Union.

Maurice Halperin graduated from Harvard in 1926 at age twenty having studied languages, and he took a job teaching French and Spanish for the high school and junior college in Ranger, Texas, near Fort Worth. After a year in Ranger, Halperin was accepted at the University of Oklahoma where he began graduate school in September 1927.

Roy Temple House was chairman of the university's Modern Languages Department, and he began a journal dedicated to writing English-language reviews of books that had been written in other languages, *Books Abroad*. Halperin published reviews in *Books Abroad*, and through the journal he was introduced to Marxism, which he admitted influenced him profoundly.

Part of the stuff that came in had very distinct Marxist orientations. This was the first time I got literature that had an explicitly Marxist analysis. It was fascinating, a new analytical approach, a new understanding of history. . . . intellectually it broadened my vision, especially of the contemporary world. Among them, books dealing with the Russian Revolution, which I never would have found on the stands in Norman. An accident, but I think it played a real role in my future development.¹

With a master's degree from OU in hand, in 1929 Halperin left Norman for the University of Paris to pursue a doctorate. While finishing his doctoral work in France in 1931, House offered Halperin a faculty position at the University of Oklahoma. Halperin happily accepted the offer to return to Norman and join the OU faculty.²

During the next ten years in Norman, Halperin studied Latin America and "at the same time, he began to drift leftward politically." In 1932 Halperin attended a speech delivered in Oklahoma City by Communist Party vice presidential candidate James Ford. Ford was black, and the crowd included both whites and blacks. "This was Oklahoma in 1932, and that sort of thing was simply not done there." Halperin was impressed with the message of equality that he heard.

I don't recall anything spectacular about it. It wasn't concerned with the overthrow of the government but with the rights of the poor. . . . I knew that this was a utopian little group here. Another thing that impressed me was the religious attachments that these people had to the cause that they were supporting. Religious almost in the literal sense because when they approved of something, they would shout "Amen!"³

As a young graduate student at the University of Oklahoma in the late 1920s, Halperin was introduced to the Marxist worldview. When he returned to Norman as a faculty member in the 1930s, he was introduced to Marx.

THE CHRONICLES OF OKLAHOMA

So I started reading Marx. . . . Marx made a tremendous impression and the impression had to do with maybe two or three things. One, his historical method seemed to throw a great searchlight on history. And number two, his critique of capitalism which I got not from *Das Kapital*, which was just too much for me, but from essays and interpretations by other people. And of course his ethical concerns were expressed in such a convincing way. It was clear that I was dealing with a huge intellect. He was a giant.⁴

Halperin wrote an article about exploitation of Mexican workers in *Current History*, and the article was quoted in a 1934 issue of *Time* magazine. As a result he was invited to accompany a group of leftists traveling from New York to Cuba in summer 1935 to explore allegations “of atrocities by Cuba’s strongman, Batista, in connection with a long-term strike there.” When he arrived in his room aboard the ship sailing for Cuba, Halperin saw an issue of the Communist Party newspaper the *Daily Worker*. He realized then that the fellows traveling with him were more than just fellow travelers—individuals who were sympathetic to Communist Party aims but did not join the party. “So I could see some element of the Communist Party was involved in this thing.”⁵

Because the trip to Cuba, including a brief detention of the ship’s passengers by Cuban police, was chronicled by passenger and leftist playwright Clifford Odets in the Marxist magazine *New Masses* shortly after the group returned to New York, word of the detention quickly arrived in Oklahoma. Just as quickly, University of Oklahoma President William Bizzell summoned Halperin to his office to explain his role in the affair. Bizzell reminded Halperin of the need for a good public image and ended the meeting without taking any action.⁶

The trip to Cuba among Communists put Halperin in the company of people with whom he increasingly shared a worldview. In the 1930s, he wanted the Democratic Party to oppose fascism in Europe, which caused him to support the foreign policy of the Communist Party USA. A supporter of FDR’s New Deal domestically, by 1936 he was, by his own admission, a fellow traveler. For two years beginning in fall 1937, Halperin regularly contributed to a faculty column, the “Faculty Forum,” in the University of Oklahoma’s student newspaper the *Oklahoma Daily*. He wrote mostly about the Roosevelt administration and world events, especially overseas fascism. Because the Soviet Union opposed fascism, Halperin gave Soviet leader Joseph Stalin a pass when the purge trials in the Soviet Union found innocents admitting guilt in supposed plots to undermine the Soviet government. Stalin,



*University of Oklahoma
President William Bizzell
(21171.50, Minneapolis
Public Library Collection,
OHS).*

he wrote, was preferable to his fascist counterparts. However, when the Nazi-Soviet Pact was announced in 1939, Halperin went strangely silent and devoted no column inches to the alliance. He also chose not to comment on the September 1939 Soviet invasion of Poland and the subsequent invasion of Finland. Then, in 1940, he stopped writing his column altogether.⁷

During these years Halperin was taking unpopular positions in Oklahoma, including supporting President Roosevelt's infamous court-packing plan that was ultimately rejected by the United States Supreme Court. Though the "press, the oil interests" and "most of the state Democratic party were ranged against the president," Halperin went on record and signed a petition of support for the ill-fated presidential effort. Then he began lecturing around Norman defending "the Mexican government's action in expropriating American oil properties" followed by statewide lectures defending John Steinbeck's *The Grapes of Wrath* portrayal of the shabby treatment migrants received as they moved west after being forced off their land.⁸ All of these stances were much further left than those of most Oklahomans.

THE CHRONICLES OF OKLAHOMA



Robert Wood, November 8, 1940 (2012.201.B1381.0313, Oklahoma Publishing Company Photography Collection, OHS).

In 1938 Halperin made a financial decision that haunted him for years afterward. He spent hundreds of dollars and bought Soviet bonds from the Chase Manhattan Bank to earn the 7 percent interest that was advertised, which was more than twice the yield of American bonds then. Then, after the Nazi-Soviet Pact in 1939, Halperin decided to sell the bonds. Chase Manhattan sent the money to Halperin's bank along with paper notification to pay him that amount. Suspicious, the bank notified the Federal Bureau of Investigation (FBI) and University of Oklahoma President William Bizzell. According to Halperin, he was accused of being a Soviet spy, though nothing came of the incident then.⁹

Robert Wood, chairman of the Oklahoma Communist Party, was tried in fall 1940 for violating Oklahoma's criminal syndicalism



Oklahoma Governor Leon Phillips (23139.G244, John Dunning Political Collection, OHS).

act. This was a microcosm, however, of nationwide anti-Communist sentiment that was seen in the actions of the House Un-American Activities Committee (HUAC), a Congressional committee chaired by Martin Dies of Texas. States like Oklahoma created their own versions of HUAC, dubbed "Little Dies Committees," to investigate local un-American activities, which, along with the conviction of Wood, alarmed state liberals and radicals. This fear that civil liberties were under attack was the impetus for the formation of the Oklahoma Federation for Constitutional Rights in October 1940. One of the executive committee members was Maurice Halperin.¹⁰

Oklahoma Governor Leon Phillips claimed that professors at the University of Oklahoma in Norman were teaching Communist ideology, and he called for the firing of those professors in January 1939. Phillips's accusations led many associated with the University of Oklahoma to call for an investigation. Professors there believed Phillips's claim of subversives in their midst was based on participation by some faculty members in both the state's Federation for Constitutional Rights and a state civil rights symposium.¹¹

While Governor Phillips sounded the alarm about state subversives, the Oklahoma Legislature also acted. In January 1939, Tom Knight,

THE CHRONICLES OF OKLAHOMA



The Dies Committee, December 15, 1938. Pictured as the final hearing closed are, left to right, seated: Representative Harold G. Mosier, Ohio; Chairman Martin Dies, and Representative J. Parnell Thomas, New Jersey. Standing, left to right: Representative John J. Dempsey, New Mexico; R. E. Stripling, secretary to the committee; and Chief Investigator John Metcalf (LOC Control No. 2016874551, Harris and Ewing Photograph Collection, Library of Congress, Washington, DC).

state house member from Claremore, “authored a bill making it a crime to participate in any sit-down strike or teach un-American theories of government.” Then, in a February joint meeting of the state legislature, and with Governor Phillips and Lieutenant Governor James Berry in the audience, the American Legion’s national commander “called for a ‘purge’ of professors who teach subversive doctrine such as communism or fascism, so America can achieve internal peace.”¹²

Two events in 1940 triggered energetic anti-Communist reactions from the governor and, once the legislature was back in session in 1941, from that body as well. A constitutional rights conference was held November 15, 1940, in Oklahoma City. Three days before the event was scheduled, Phillips held a press conference and warned University of Oklahoma faculty members not to attend. “The six professors scheduled to attend the conference included Dr. Charles M. Perry, Dr. John F. Bender, Dean Nicholas Comfort, Dr. Maurice Halperin, Dr. J. Rud

Nielson, and Dr. Willard Z. Park.” Most of those men were subpoenaed when the legislature met in January 1941 and investigated “subversive groups throughout the state.”¹³

During the legislature’s first week in session, House Bill 17, prohibiting Communist Party members from appearing on state ballots, was passed by the full house 118–0. However, the Oklahoma Federation for Constitutional Rights insisted the bill receive a public hearing. Unhappy with the state legislature’s aggressive attempt to curb the rights of perceived subversives in early 1941, leaders of the Oklahoma Federation of Constitutional Rights forced a showdown with the legislature. “On January 23 . . . two University of Oklahoma (OU) professors, W. C. Randels (mathematics) and Maurice Halperin (Romance languages), appeared uninvited at a meeting of the Senate Committee on Privileges and Elections to press for hearings on the anticommunist bills.” Halperin maintained that the federation did not intend to uphold Communism, but instead to protect the political rights of all Oklahomans. At the end of January, State Senator Joe Thompson introduced legislation to begin investigating the Communist Party in Oklahoma.¹⁴

The committee tasked with the Communist investigation was the senate Committee on Privileges and Elections. The committee met for the first time on February 4, 1941, and seven University of Oklahoma faculty members were among the thirty-five individuals subpoenaed to testify. Governor Phillips was the first to take the stand, and he announced during his testimony that he had provided the FBI several documents concerning Oklahoma Communism in the previous two years.¹⁵ Oklahoma’s Little Dies Committee heard witness testimony throughout February. Testifying before the committee on the final day were University of Oklahoma philosophy professors Charles Perry and Gustav Mueller, education professor John Bender, and modern languages Professor Maurice Halperin.¹⁶

During his testimony, Halperin was asked if he knew any Communists, and he answered that he did not. He was asked if he was a Communist or had attended any Communist Party meetings, and he again answered negatively. He also denied that he “believe[d] in the Russian cause.” Then the committee asked about the 1935 trip to Cuba, and, as Halperin’s biographer relates, “his replies were more than a bit disingenuous.” When asked the purpose of the trip, he said “to study the culture, the civilization and the political situation in Cuba.” In response to a question about being arrested, “he replied that they had been ‘detained,’ and explained that the authorities ‘preferred we did not land because the situation there was rather tense. They feared for our safety.’” According to Don S. Kirschner, Halperin’s biographer,

THE CHRONICLES OF OKLAHOMA



Senator Pat McCarran of Nevada, March 11, 1940 (LOC Control No. 2016877254, Harris and Ewing Photograph Collection, Library of Congress, Washington, DC).

this was untrue. Additionally, though Halperin was asked who accompanied him on the trip, he failed to mention the Communist presence among his fellow travelers.¹⁷

After the investigation was concluded, the Little Dies Committee reported its findings to the whole senate May 7, 1941, and asserted that the Communist Party was “active in the state and engaged in the field of propaganda and agitation,” that more than thirty local Communist Party chapters existed, that total party membership exceeded one thousand, and that “Communists worked in all sections of the state.” One of the committee’s eleven recommendations was that the University of Oklahoma fire professor Maurice Halperin.¹⁸ The issue was resolved, however, when Halperin accepted a job as a “Latin American analyst with the Office of Strategic Services, the predecessor to the CIA.”¹⁹

In 1946, amid souring relations with the Soviet Union, Congress was receiving information about Communists in the Office of Strategic Services (OSS). One OSS official singled out was Maurice Halperin. Aware



*Whittaker Chambers, 1948
(LOC Control No. 95512199,
New York World-Telegram
and Sun Newspaper Photo-
graph Collection, Library of
Congress, Washington DC).*

of the allegation, Halperin decided to leave the OSS and take a job representing the American Jewish Conference to the United Nations. One morning that same year, Halperin read in Drew Pearson's nationally syndicated "Washington Merry-Go-Round" newspaper column that he faced indictment for espionage while with the OSS. Though startling, nothing came of this public allegation.²⁰

Halperin left the American Jewish Conference to take a job with Boston University in the Latin American Regional Studies Department. While in Boston, Halperin's life changed dramatically in 1953. In the era of McCarthyism, "the Senate Internal Security Subcommittee (SISS) began its investigations under Democratic Senator McCarran in 1952, but it continued them under Republican Senator Jenner early in 1953." These hearings found several professors asserting their Fifth Amendment right against self-incrimination during testimony, for which they were fired from their universities. Halperin was subpoenaed, and in March 1953 he testified before SISS. Asked if he had been a member of the Communist Party and if he had engaged in the kind of espionage activity that former Soviet spy-turned-informant Elizabeth Bentley had accused him of to the FBI and HUAC, as well as being

THE CHRONICLES OF OKLAHOMA



Elizabeth Bentley, 1948 (LOC Control No. 94504253, New York World-Telegram and Sun Newspaper Photograph Collection, Library of Congress, Washington, DC).

asked about his political activities at the University of Oklahoma, his Cuba trip, the Soviet bond purchase and other matters, Halperin generally invoked the Fifth Amendment, though he did assert that he did not commit espionage.²¹

Shortly after Halperin's testimony, Nathaniel Weyl, an admitted former Communist, also testified before SISS. A New York City Communist, Weyl took a job in Washington, DC, in 1933 in the federal Agricultural Adjustment Administration (AAA). While with the AAA, "he joined a se-

MAURICE HALPERIN

JOHN EDGAR HOOVER
DIRECTOR



Federal Bureau of Investigation
United States Department of Justice
Washington, D. C.
November 8, 1945

TOP SECRET
BY SPECIAL MESSENGER

DECLASSIFIED
E. O. 12958, Sec. 1.02 and 1.04, of 10/12/2001
EXEMPT FROM AUTOMATIC DOWNGRADING AND DECLASSIFICATION
BY FBI, DATE 04-27-79, BY 60322/UC/STP/7

Brigadier General Harry Hawkins Vaughan
Military Aide to the President
The White House
Washington, D. C.

Dear General Vaughan:

As a result of the Bureau's investigative operations, information has been recently developed from a highly confidential source indicating that a number of persons employed by the Government of the United States have been furnishing data and information to persons outside the Federal Government, who are in turn transmitting this information to espionage agents of the Soviet Government. At the present time it is impossible to determine exactly how many of these people had actual knowledge of the disposition being made of the information they were transmitting. The investigation, however, at this point has indicated that the persons named hereinafter were actually the source from which information passing through the Soviet espionage system was being obtained, and I am continuing vigorous investigation for the purpose of establishing the degree and nature of the complicity of these people in this espionage ring.

The Bureau's information at this time indicates that the following persons were participants in this operation or were utilized by principals in this ring for the purpose of obtaining data in which the Soviet is interested:

Dr. Gregory Silvermaster, a long time employee of the Department of Agriculture.

Harry Dexter White, Assistant to the Secretary of the Treasury.

George Silverman, formerly employed by the Railroad Retirement Board, and now reportedly in the War Department.

Laughlin Currie, former Administrative Assistant to the late President Roosevelt.

Letter from FBI Director J. Edgar Hoover to Brigadier General Harry Hawkins Vaughan dated November 8, 1945 (FBI-S, box 169, President's Secretary's Files, Harry S. Truman Library, Independence, Missouri, viewed on the Central Intelligence Agency website at www.cia.gov/library/center-for-the-study-of-intelligence/csi-publications/books-and-monographs/venona-soviet-espionage-and-the-american-response-1939-1957/part1.htm.

-2-



Victor Perlov, formerly with the War Production Board and the Foreign Economic Administration.

Donald Wheeler, formerly with the Office of Strategic Services.

Major Duncan Lee, Office of Strategic Services.

Julius Joseph, Office of Strategic Services.

Helan Tenney, Office of Strategic Services.

Maurice Halperin, Office of Strategic Services.

Charles Kramer, formerly associated with Senator Klugers.

Captain William Ludwig Ullman, United States Army Air Corps.

Lieutenant Colonel John H. Reynolds of the United States Army, a former contact of Galt Oshkosh, former head of the Soviet Secret Intelligence (NKVD) in New York, is also apparently involved in the Soviet espionage activities stemming from Washington, D. C.

In addition to the foregoing group in the Government it appears at this time that Mary Price, formerly Secretary to Walter Lippmann, the newspaper columnist and presently publicity manager of the United Office and Professional Workers of America, CIO, is also associated with the foregoing group.

The Government documents were furnished to Gregory Silvermaster, who thereafter photographed them and turned over the undeveloped, but exposed film to a contact of the Soviets

-3-

In either Washington, D. C. or New York City. In the past, it is reported, the contact man made trips to Washington, D. C. once every two weeks and would pick up on such occasions an average of forty rolls of 35-millimeter film.

Investigation of this matter is being pushed vigorously, but I thought that the President and you would be interested in having the foregoing preliminary data immediately.

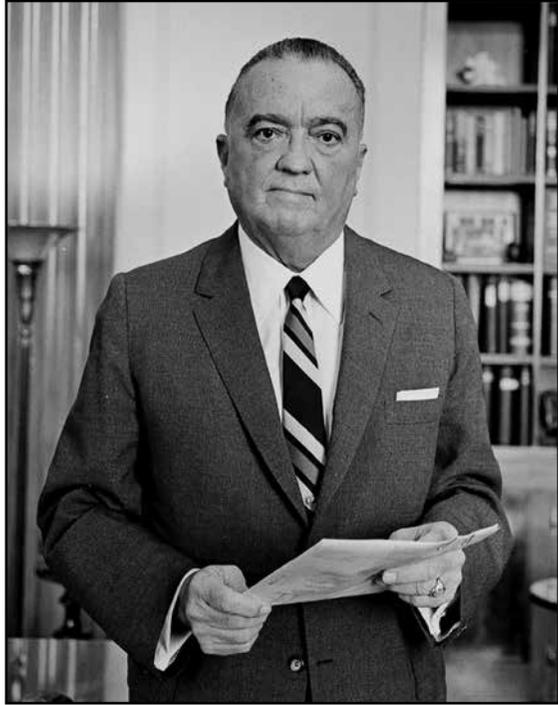
With expressions of my highest esteem and best regards,

Sincerely yours,
J. Edgar Hoover



THE CHRONICLES OF OKLAHOMA

J. Edgar Hoover, September 28, 1961 (LOC Control No. 2004672754, U.S. News and World Report Magazine Photograph Collection, Library of Congress, Washington, DC).



cret Communist party cell, most of whose members were later identified by Whittaker Chambers. He left the New Deal in 1934 to work full time for the Communist party by organizing farm workers in the Midwest.” Weyl testified that he learned of Halperin through Homer Brooks who had worked as an official for the Communist Party in the American Southwest. Brooks told Weyl of Halperin’s having “been ‘accredited’ as the Texas-Oklahoma representative of the Communist party to the Mexican Communist party.” Even Halperin’s biographer concedes that Weyl was credible. The former Communist’s testimony supported charges that Halperin had been a Communist while a professor at the University of Oklahoma, his protestations to the contrary before the Sooner State’s Little Dies Committee notwithstanding.²²

In the fall of 1953, a story broke that drove Halperin from both Boston and the United States when, for the second time, he was publicly linked to espionage. This time, the accusation came from high officials in the federal government. On November 17, President Eisenhower’s Attorney General Herbert Brownell testified before SISS and read a November 1945 letter from FBI Director J. Edgar Hoover to President Truman “identifying a spy ring that had been functioning in Washing-



*Office of Strategic Services
Director William Donovan
(LOC Control No. 93517612,
George Grantham Bain Col-
lection, Library of Congress,
Washington, DC).*

ton during the war.” The substance of the letter came from a deposition provided to the FBI by Elizabeth Bentley, and Halperin was one of the spies named. The director of the FBI, through the attorney general of the United States, using correspondence that included the president of the United States, claimed that Maurice Halperin was guilty of espionage on behalf of the Soviet Union.²³

The next day, Wednesday, November 18, 1953, Boston University suspended Halperin, pending a university committee meeting the following week to clarify the issues in which he was involved. One week after his suspension from Boston University, Halperin and his wife, Edith, purportedly fearing for his job and his ability to gain other American employment should he be fired in such an uncertain political environment, left Boston for Mexico. If Halperin had been a liaison to the Mexican Communist Party as the Texas-Oklahoma representative of the Communist Party USA during the 1930s, as Nathaniel Weyl had testified, Halperin would have had contacts there.²⁴

Maurice Halperin’s life changed dramatically when Elizabeth Bentley accused him of being a spy for the Soviet Union. He denied her allegations, just as he had denied being a Communist in testimony be-

THE CHRONICLES OF OKLAHOMA

fore Oklahoma's Little Dies Committee in 1941 and before the FBI in 1942 and 1947, yet he fled the United States "and spent years of exile in Mexico, the Soviet Union, and Cuba, before settling in Canada."²⁵ Either Bentley lied or Halperin lied.

Elizabeth Bentley joined the Communist Party in the 1930s, and she began working in "its underground apparatus in New York" by decade's end. She answered to Jacob Golos, with whom she became romantically involved. Golos worked for the NKVD, a predecessor of the Soviet Union's KGB. During World War II she made contacts with employees of multiple government agencies in Washington, DC. After Golos died in 1943, she became leery of her NKVD superiors, and she became paranoid that the FBI would soon arrest her for espionage, so in late 1945 she went to the FBI and confessed.

She testified behind closed doors for a grand jury in 1947 and before two congressional committees (including HUAC) in July 1948, when her revelations became public knowledge for the first time. Eventually she named more than one hundred people, but subsequent investigations focused primarily on the more than two dozen who were still employed by the federal government when she began to talk to the FBI in 1945. One of them was Maurice Halperin.²⁶

Bentley claimed that Halperin had been a member of the Communist Party when he lived in Oklahoma in the 1930s. She said that when Halperin arrived in Washington, DC, after taking the OSS job, he and former University of Oklahoma colleague Willard Park contacted Bruce Minton of the leftist *New Masses* magazine "and told him that 'they desired to be placed in contact with some Communists in the East.'" Minton took this to Golos, who put them in touch with Bentley. She said that she first met with Halperin late in 1942 at Park's home in Maryland, "at which time she 'arranged to collect Communist Party dues' from him." Shortly thereafter, "Golos went to Washington 'and apparently made arrangements with them on that occasion to be supplied . . . with certain information to which they had access in their respective offices.'"²⁷

Bentley said that Halperin "passed along 'mimeographed bulletins and reports prepared by OSS on a variety of topics and also supplied excerpts from State Department cables to which he evidently had access.'" FBI files also included a letter from within the bureau to Director J. Edgar Hoover discussing this information, saying "that in Bentley's early contacts with Halperin 'he had apparently unlimited

access to what she describes as daily cabled intelligence summaries compiled by the State Department.” Bentley visited Washington every two weeks, and this letter states that “HALPERIN would have a two-weeks accumulation of such summaries and sometimes would turn them over physically to her, while at other times he would perhaps clip out a pertinent paragraph or two and hand it over to her.” Bentley also said that after OSS security was tightened, Halperin was forced to take greater care not to be discovered conveying this information to her, so “he ‘adopted the practice of personally typing digests of such information as he thought of interest.’”²⁸

Bentley told government officials that Halperin would occasionally come to New York where she and Golos would spend the evening with him dining and enjoying a show. She conceded that Halperin may have believed that the classified OSS information he was giving to her was destined for the Communist Party USA instead of the Soviet Union, though the law did not recognize a distinction. The Espionage Act of 1917—under which Julius and Ethel Rosenberg were convicted in 1951 and subsequently executed in 1953—outlawed transmission of classified documents to unauthorized personnel, which means that if Bentley’s allegations were true, Halperin violated the Espionage Act. After their last contact in 1944, Bentley was told by a Soviet contact that OSS Director William Donovan confronted Halperin about being a spy, after which Halperin no longer met with his Soviet intelligence contact, and she lost track of him.²⁹

Kirschner sums up Bentley’s allegations against Halperin:

She had firsthand knowledge that Halperin was a member of the Communist party; that he paid party dues to her; that he passed along printed material from the OSS and the State Department from late 1942 or early 1943 until late 1944, approximately two years; and that he occasionally met her and her superior in New York City. She had hearsay information that it was he who had initiated the contact with Communists in Washington; that the material he gave to her was prized by the NKVD; and that Donovan was aware of Halperin’s activities by 1945, and had confronted him with them. She also knew that Halperin had been at Oklahoma University, that Willard Park had been there with him, and that Park was now employed in Washington.³⁰

From 1940 until 1949, the FBI kept a file on Halperin, though little in it backs up Bentley’s allegations. The file includes a May 1940 allegation from an anonymous Norman source noting that Halperin was “a

THE CHRONICLES OF OKLAHOMA

Edith and Maurice Halperin at their golden wedding celebration, 1976 (UNS76229 frame 13, used with permission of Simon Fraser University, Burnaby, British Columbia. Copyright Simon Fraser University).



suspect in ‘espionage and Communistic activities.’” Hoover notified the FBI’s Oklahoma City office when Halperin went to work for the federal government in Washington in 1941, pointing out that he had been accused by many in Norman of having Communist beliefs. In February 1942 the FBI’s Washington office questioned Halperin under oath, and he swore that he had never been a Communist Party member. This echoed his testimony the previous year to the Oklahoma Legislature’s Little Dies Committee.³¹

In his 1953 testimony before SISS, Nathaniel Weyl said that Communist Party organizer for Oklahoma and Texas Homer Brooks told Weyl that Halperin was a Communist. Halperin told his biographer, Don S. Kirschner, that he had never heard of Homer Brooks. In 1993, however, Weyl provided further information to Kirschner that he had not provided in his 1953 testimony that included details involving his late wife, Sylvia Weyl. Weyl informed Kirschner by letter that, in the 1930s, Sylvia had

accepted the job of organization secretary (the no. 2 spot) of the Texas-Oklahoma district of the CP. When we went down to Mexico, Homer told her to take over Halperin’s job as rep to the Mexi-

can Party. She met with Halperin at our hotel. I seem to recall meeting him then, but was not present at her talk with him. She told me that he had been uncooperative and resentful at having been replaced.³²

In a follow-up telephone conversation, Weyl said that the meeting with Halperin was in 1936 or 1937. In his letter to Kirschner, Weyl wrote that even if Halperin was not a “card-carrying” Communist Party member in the 1930s, that distinction was irrelevant, because “the criterion for the communist movement at that time was not whether one carried a membership card,” because neither of the Weyls did, “but whether or not one accepted the discipline of the party and understood its ideology and line. If Dr. Halperin says he was never a party member, this may be a semantic issue without too much substance.” After Kirschner confronted Halperin with this information during the writing of the biography, Halperin claimed that though he had met Nathaniel Weyl while in Mexico conducting journalistic research, he never met Sylvia, and he was not a representative to the Mexican Communist Party. However, Halperin had previously told Kirschner that he had, in fact, met Sylvia Weyl, in Mexico. Whether Halperin was mistaken or lying, former Communist Nathaniel Weyl implicated Maurice Halperin in 1953, and again forty years later, as a Communist during the 1930s while Halperin was a faculty member at the University of Oklahoma.³³

Unfortunately for Kirschner, he did not have the benefit of information provided by Venona when he published his biography of Halperin. Venona was the name of a top secret American program begun late in 1943 to decipher encrypted messages sent from Soviet diplomats in the United States to Moscow. Its hidden fifty-year existence was revealed to the American public in 1995. These deciphered messages showed that the Soviet Union, though a wartime ally, had, since 1942, placed at least “349 citizens, immigrants, and permanent residents of the United States” as spies in the American government and military, including the Manhattan Project. Spies such as Assistant Treasury Secretary Harry Dexter White and presidential aide Lauchlin Currie were highly-placed American government officials. Another was Maurice Halperin. Venona showed that Halperin, while employed with the OSS, “turned over hundreds of pages of secret American diplomatic cables to the KGB.”³⁴

Venona corroborates Elizabeth Bentley’s description of Halperin’s espionage productivity. Halperin specialized in providing Soviet intelligence “sensitive dispatches that were furnished to the OSS.” In all,

THE CHRONICLES OF OKLAHOMA



Presidential aide Lauchlin Currie, July 17, 1939 (LOC Control No. 2016875960, Harris and Ewing Photograph Collection, Library of Congress, Washington, DC).

twenty-two decoded Venona messages detail Halperin's participation in espionage for the Soviet Union.

Halperin handed to the Soviets U.S. diplomatic cables regarding Turkey's policies toward Romania, State Department instructions to the U.S. ambassador in Spain, U.S. embassy reports about Morocco, reports from Ambassador John Winant in London about the internal stance of the Polish government-in-exile toward negotiations with Stalin, reports on the U.S. government relationship with the many competing French groups and personalities in exile, reports of peace feelers from dissident Germans being passed on by the Vatican, U.S. perceptions of Tito's activities in Yugoslavia, and discussions between the Greek government and the United States regarding Soviet ambitions in the Balkans.³⁵

In addition to compiling diplomatic information for Soviet sources, Halperin also slanted OSS reports to favor the Communist perspective.³⁶

Halperin's inconsistent answers about Sylvia Weyl were not the only contradictory answers that he gave his biographer. Halperin told the FBI in 1947 that he was not a Communist, had never met Elizabeth Bentley, and had never communicated with Soviet intelligence agents. Yet, Halperin told Kirschner in the 1990s that he had met with Bentley, but only in her capacity as assistant for Earl Browder, head of the Communist Party USA, and he never passed classified documents to her.³⁷

Soviet intelligence gave code names to their American assets and used those names in their communications. Halperin's code name was "Hare," and it was included in a November 23, 1945, message from Moscow listing thirteen agents with whom Anatoly Gorsky, a Soviet agent working in the United States, was to discontinue contact because of Elizabeth Bentley's confession of Soviet espionage to the FBI earlier that month.³⁸

The United States government was unwilling to reveal the existence of Venona, so prosecutors pursued cases against spies in the 1940s and 1950s without the Venona information. Without corroborating evidence, though, the government was often unable to bring those named to trial, much less get a guilty verdict. "Four of those Bentley named did testify, denied her charges, but then put themselves beyond prosecution for perjury by leaving the United States," including "Duncan Lee, Frank Coe, and Lauchlin Currie." The fourth was Maurice Halperin. Though Maurice Halperin denied Elizabeth Bentley's allegations about his involvement with Communism and Soviet espionage, Venona—which implicated Julius and Ethel Rosenberg, Harry Dexter White, and Alger Hiss, among many others, in Soviet espionage—showed that Bentley told the truth and Halperin lied.³⁹

Maurice Halperin swore under oath in the 1940s and 1950s that he was not a Communist, that he had never met Elizabeth Bentley, and that he had never made contact with any Soviet intelligence agents or spied for the Soviet Union. Bentley and Nathaniel Weyl, on the other hand, testified that Halperin was a Communist in the 1930s while he was a University of Oklahoma professor, and Bentley testified that he later engaged in espionage for the Soviet Union. Despite his denials in sworn testimony and to his biographer, Venona confirmed Halperin's Communist activity and Soviet espionage. Even if the search for Communists in Oklahoma and the nation was largely a baseless witch hunt—though Venona shows that that assessment deserves some re-evaluation—Halperin's case is an example of the aphorism that even a broken clock is right twice a day. Maurice Halperin was exposed as an Oklahoma subversive who became a Soviet spy.

THE CHRONICLES OF OKLAHOMA

Endnotes

* Landry Brewer is Bernhardt Instructor of History at Southwestern Oklahoma State University and teaches history and political science courses at the Sayre campus. He and his wife, Erin, have five children and live in Elk City. The photograph of Maurice Halperin on page 156 is from the 1926–27 *Ranger College* yearbook. Ranger College is located in Ranger, Texas.

¹ Maurice Halperin, quoted in Don S. Kirschner, *Cold War Exile: The Unclosed Case of Maurice Halperin* (Columbia: University of Missouri Press, 1995), 17, 19–21.

² *Ibid.*, 23–24, 32.

³ *Ibid.*, 34, 36–37.

⁴ *Ibid.*, 39.

⁵ *Ibid.*, 39–40.

⁶ *Ibid.*, 41–42.

⁷ *Ibid.*, 49–55.

⁸ *Ibid.*, 56.

⁹ *Ibid.*, 57.

¹⁰ *Ibid.*, 58.

¹¹ George Lynn Cross, *Professors, Presidents, and Politicians: Civil Rights and the University of Oklahoma, 1890–1968* (Norman: University of Oklahoma Press, 1981), 112; Eric Beu, “Leon Phillips and the New Deal in Oklahoma” (master’s thesis, University of Central Oklahoma, 2015), 46–47, 49.

¹² Beu, “Leon Phillips and the New Deal in Oklahoma,” 52–53.

¹³ *Ibid.*, 61–62.

¹⁴ Beu, “Leon Phillips and the New Deal in Oklahoma,” 64–65; Wayne A. Wiegand and Shirley A. Wiegand, “Sooner State Civil Liberties in Perilous Times, 1940–1941, Part 2: Oklahoma’s Little Dies Committee,” *The Chronicles of Oklahoma* 85, no. 1 (Spring 2007): 7.

¹⁵ Beu, “Leon Phillips and the New Deal in Oklahoma,” 66.

¹⁶ Cross, *Professors, Presidents, and Politicians*, 124.

¹⁷ Kirschner, *Cold War Exile*, 60–61; Wiegand and Wiegand, “Sooner State Civil Liberties in Perilous Times,” 23, 25.

¹⁸ Beu, “Leon Phillips and the New Deal in Oklahoma,” 69.

¹⁹ *Ibid.*, 70–71.

²⁰ Kirschner, *Cold War Exile*, 112–16; Thomas Mallon, “Washington Scribe: The Diaries of the Ultimate D.C. Insider,” *The New Yorker*, September 28, 2015, accessed May 25, 2018, www.newyorker.com/magazine/2015/09/28/washington-scribe.

²¹ *Ibid.*, 118, 127–29.

²² *Ibid.*, 130–31.

²³ *Ibid.*, 133.

²⁴ *Ibid.*, 134–35, 137–40.

²⁵ *Ibid.*, 277.

²⁶ *Ibid.*, 278–79.

²⁷ *Ibid.*, 279–80.

²⁸ *Ibid.*, 280–81.

²⁹ *Ibid.*, 281–82, 302.

³⁰ *Ibid.*, 282.

³¹ *Ibid.*, 290–92.

³² *Ibid.*, 314.

³³ *Ibid.*, 315–16.

³⁴ John Earl Haynes and Harvey Klehr, *Venona: Decoding Soviet Espionage in America* (New Haven, CT: Yale University Press, 1999), 6, 8–10.

³⁵ *Ibid.*, 101–02.

³⁶ Ibid.

³⁷ Ibid., 102–03.

³⁸ Allen Weinstein and Alexander Vassiliev, *The Haunted Wood: Soviet Espionage in America—The Stalin Era* (New York: Random House, 1999), xxiii, 106, 256.

³⁹ Haynes and Klehr, *Venona: Decoding Soviet Espionage in America*, 9–11, 15–16, 35–36, 90, 129–30, 160–61, 163, 170–73, 220, 223–24, 307–11, 331–32.

Top



[Maurice Hyman Halperin. (Jun. 15, 2023). Surveillance by the C.I.A., JFK Assassination Records - 2023 Additional Documents Release, File No. 80R01357A. National Archives. Source: <https://www.archives.gov/research/jfk/release2023?search=halperin#>]

JFK Assassination Records – 2023 Additional Documents Release

The National Archives and Records Administration (NARA) is processing previously withheld John F. Kennedy assassination-related records to comply with President Biden’s Memorandum for the Heads of Executive Departments and Agencies on the Temporary Certification Regarding Disclosure of Information in Certain Records Related to the Assassination of President John F. Kennedy, requiring disclosure of releasable records by June 30, 2023. NARA worked in concert with agencies to jointly review the remaining redactions in 3,648 documents in compliance with the President's directive. Between April and June 2023, NARA posted 2,672 documents containing newly released information. Documents released in December 2022 are not being posted again if the redactions have not changed.

- June 27, 2023: 1,103 documents
- June 13, 2023: 290 documents
- May 11, 2023: 502 documents
- April 27, 2023: 355 documents
- April 13, 2023: 422 documents

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ly ld	Doc Date	Doc Type	File Num	To Name	From Name	Title	Num Pages	Originator	Record Series	Review Date	Comments	Pages Release
	12/27/1962 [PDF]	PAPER - TEXTUAL DOCUMENT	80T01357A	CHIEF, CONTACT DIVISION, (SUPPORT)	CONTACT DIVISION FIELD OFFICE	MEMO ADVISING OF RECEIPT OF CURRENT ADDRESS OF MAURICE HALPERIN	2	CIA	JFK	06/15/2023	JFK14 : F75 : 1993.07.30.17:44:15:000046 : PAGE 1 OF 2 PAGE DOC IS COVERING ROUTING SHEET; FROM CHIEF CONTACT DIV. TO TFW	2
	01/01/0000 [PDF]	PAPER - TEXTUAL DOCUMENT	80T01357A			HALPERIN, MAURICE HYMAN.	10	CIA	JFK	06/15/2023	JFK64-8 : F9 : 1998.02.18.11:37:45:390082 : NOT BELIEVED RELEVANT (NBR)	10
	01/01/0000 [PDF]	PAPER - TEXTUAL DOCUMENT	80T01357A			HALPERIN, MAURICE HYMAN.	201	CIA	JFK	06/15/2023	JFK64-8 : F10 : 1998.02.18.11:41:05:700082 : NOT BELIEVED RELEVANT (NBR)	201
	01/01/0000 [PDF]	PAPER - TEXTUAL DOCUMENT	80T01357A			HALPERIN, MAURICE HYMAN.	168	CIA	JFK	06/15/2023	JFK64-8 : F13 : 1998.02.18.12:19:22:590082 : NOT BELIEVED RELEVANT (NBR)	168
	01/01/0000 [PDF]	PAPER - TEXTUAL DOCUMENT	80T01357A			HALPERIN, MAURICE HYMAN.	84	CIA	JFK	06/15/2023	JFK64-8 : F14 : 1998.02.18.12:22:22:856082 : NOT BELIEVED RELEVANT (NBR)	84
	01/01/0000 [PDF]	PAPER - TEXTUAL DOCUMENT	80T01357A			HALPERIN, MAURICE HYMAN.	234	CIA	JFK	04/06/2023	JFK64-8 : F12 : 1998.02.18.12:14:22:543082 : NOT BELIEVED RELEVANT (NBR)	235

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	01/01/0000 [PDF]	PAPER - TEXTUAL DOCUMENT	80T01357A			HALPERIN, MAURICE HYMAN.	187	CIA	JFK	02/28/2023	JFK64-8 : F11 : 1998.02.18.11:53:16:420082 : NOT BELIEVED RELEVANT (NBR)	187

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Top

SUBJECT: Maurice Hyman HALPERIN

1. Maurice Hyman HALPERIN, a summary of whose background and activities appears as Attachment A, on 15 July 1957 made reservations through the "Mundus Tours" in Mexico for "four engineers" on KLM flight #652 leaving Mexico for Amsterdam at midnight on 20 July 1957. On the afternoon of 19 July 1957, the individual in the tourist agency with whom HALPERIN had made the original reservations advised KLM that three of the persons who would travel on the above reservations were Alfred K. STERN, Martha STERN, and Robert STERN. The fourth reservation was cancelled. The STERNS had previously obtained fraudulent Paraguayan passports, alleging that they were citizens of that country. These passports have been declared void by the Government of Paraguay. We do not know what part, if any, HALPERIN played in obtaining the passports, but we do know that he was so intimately associated with the STERNS and their affairs that it would be surprising if he were not involved in the passport deal. Martha Dodd STERN and Alfred K. STERN were indicted by a Federal Grand Jury in the Southern District of New York on 9 September 1957 on a charge of conspiring to obtain and transmit to the USSR information relating to the national defense of the United States. The STERNS continued directly behind the Iron Curtain, where they have remained.

2. Considerable publicity resulted from this escape of the STERNS. This publicity also involved a number of American Communists then residing in Mexico. The attached clippings (Attachment C) list Maurice HALPERIN in this group.

3. In September 1958 the Mexican Government started deporting American Communists. According to the press, among those listed for deportation was Maurice HALPERIN. HALPERIN applied for a U.S. passport on 26 July 1958. He

and his wife obtained their passports at the American Embassy on 26 August 1958 and departed Mexico on 13 October 1958. They went behind the Iron Curtain and are residing in Moscow. Our latest information indicates that HALPERIN is working for the Soviet Government and is also in the process of writing a book.

Attachments:

- A - Summary of HALPERIN's background and activities.**
- B - Newspaper stories regarding HALPERIN's dismissal from Boston University.**
- C - Newspaper stories regarding activities of American Communists in Mexico.**

Attachment A

SUBJECT: Maurice Hyman HALPERIN

1. Maurice HALPERIN received a Bachelor of Arts degree from Harvard University, Cambridge, Massachusetts, in 1926 in the field of Romance Languages, and a Master of Arts degree from the University of Oklahoma, Norman, Oklahoma, in 1929, also in the field of Romance Languages. In 1931 he received a Doctor of Philosophy degree in the field of Comparative Literature from the University of Paris, Paris, France. Early in his career HALPERIN developed an intensive interest in the civilization of Mexico. Prior to 1941 he made ten trips to Mexico and spent the equivalent of two years in that country.

2. HALPERIN was a professor at the University of Oklahoma from 1931 to 1941. From 1941 to 1945 he was employed with the Coordinator of Information (COI) and the Office of Strategic Services (OSS) where he was assigned to the Latin American Division, becoming ultimately the head of that Division. The Latin American Section of the Research and Analysis Unit of OSS was transferred to the Department of State under Executive Order No. 9, 621, dated 20 September 1945. HALPERIN, as Chief of this Unit, was also transferred to the Department of State. On 31 May 1946 he resigned from the Department of State due to ill health. In June 1946 he obtained employment in New York City with the American-Jewish Conference, handling minority groups and acting as a liaison official between that organization and the United Nations at Lake Success, New York. In the summer of 1949, HALPERIN made a trip to South America and in the fall of 1949 he became head of the Latin American Regional Students Section at Boston University, College of Liberal Arts, Boston, Massachusetts. He was not officially dismissed from this position until 6 January 1954; however, he went to Mexico on 28 November 1953 where he remained until October 1958.

3. In 1941 the Oklahoma State Legislative Committee investigating subversive activities in the State of Oklahoma learned that HALPERIN had been a member of a group of individuals who traveled to Cuba in 1935 in what was described as a Communist-inspired "Commission of Investigation of Conditions in Cuba" arranged by Communist leaders and sponsored by front organizations. Upon landing in Cuba, the delegation was arrested by the Cuban authorities and expelled after one day of confinement on the ground that it was a subversive group and may have planned an uprising of some nature. The State Legislative Committee also learned that in 1940 HALPERIN had cashed a check for \$436.01 drawn on the Bank of Foreign Trade, Moscow, USSR; that he associated with individuals of known leftist tendencies; that he had submitted articles to the "New Masses" and the "New Republic"; and that he had been a member of the following organizations regarded by the Committee as leftist: Civil Liberties Committee, American Federation of Teachers, and Oklahoma Federation of Constitutional Rights.

4. On the basis of its findings, the Oklahoma State Legislative Committee recommended that HALPERIN be dismissed from his position at the University of Oklahoma. HALPERIN was subsequently discharged from the University on 8 September 1941, at which time he was on sabbatical leave. However, he was reinstated on 11 February 1942 and his sabbatical leave continued for the fiscal year ending 1 July 1942. It has been reported that this reinstatement was brought about by protests made by the Association of University Professors and that HALPERIN was reinstated without prejudice with the understanding that he would resign at the termination of his sabbatical leave in order that no undue hardship would be sustained in his efforts to find other employment.

5. Although the above information was known to appropriate officials of COI/OSS, it was felt at the time that the

explanations given by him in regard to his trip to Cuba and the check drawn on the Moscow Bank of Foreign Trade "exonerated" him.

6. In November 1945 Elizabeth Terril BENTLEY, an admitted former espionage courier, stated that she had become acquainted with HALPERIN in the latter part of 1942 through arrangements made by Jacob GOLOS, a known Soviet espionage agent who died on 27 November 1943. She further stated that HALPERIN supplied GOLOS with information to which he had access in his office, including mimeographed bulletins and reports prepared by OSS on a variety of topics and excerpts from State Department cables to which he had access. References to BENTLEY's contact with HALPERIN while he was employed by OSS are contained in BENTLEY's book "Out of Bondage" on pages 260, 210, 261, 263-266.

7. On 20 November 1953 HALPERIN was suspended without pay from his position of Associate Professor of the Latin American Regional Students Section at Boston University, College of Liberal Arts, after he refused on constitutional grounds to tell the U.S. Senate Internal Security Subcommittee whether he was ever a member of the Communist Party. This action was taken as a result of public disclosures on television of a letter from Mr. J. Edgar HOOVER to Mr. Harry H. VAUGHN dated 8 November 1945 and declassified on 16 November 1953 in which Mr. HOOVER stated that as a result of investigative operations, information had recently been developed from a highly confidential source indicating that a number of persons employed by the Government of the United States had been furnishing data and information to persons outside the Federal Government who in turn were furnishing the information to espionage agents of the Soviet Government. The letter linked HALPERIN with Harry Dexter WHITE, Dr. Gregory SILVERMASTER, and other government officials then suspected of espionage. HALPERIN had been

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suspended previously by Boston University in March 1953 for refusing to answer questions of a Senate Internal Security Subcommittee hearing in Boston, but was reinstated after being reprimanded and severely censured. Copies of newspaper articles relating to HALPERIN's dismissal from Boston University are attached, as Attachment B. It will be noted that according to these articles HALPERIN and his family left their home in Massachusetts in the middle of the night without informing officials of Boston University of his departure. He was officially dismissed from the University on 6 January 1954.

8. After his arrival in Mexico, HALPERIN became a member of the American Communist Group in Mexico (ACGM) and was associated closely with Alfred K. STERN and his wife, Martha Dodd STERN, who had arrived in Mexico on 5 July 1953. Following the arrest of the Soviet agents, Jack SOBLE and his wife, Myra SOBLE, and Jacob ALBAM on 25 January 1957, it was disclosed that the STERNS had been implicated in Soviet espionage activity with Jack SOBLE. On 20 July 1957 the STERNS fled from Mexico to Czechoslovakia ostensibly to avoid being extradited to the United States to testify before a Special Grand Jury in regard to their association with Jack SOBLE and the "double agent" Boris MORROS utilized by the FBI in the Jack SOBLE case. An investigation of the way in which the STERNS had been able to leave Mexico clandestinely disclosed that their airplane reservations had been obtained for them by HALPERIN without disclosing to the airlines that they were to be used by the STERNS until the day before their departure. HALPERIN was very closely associated with the STERNS throughout this period and was intimately involved in their plans for escape.

9. The public disclosure of the assistance HALPERIN rendered the STERNS at the time of their flight from Mexico resulted in the dismissal of HALPERIN and his wife, Edith HALPERIN, from positions in Mexico City in which they were

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employed. Up to that time, Edith HALPERIN had been employed as a teacher by the American School Foundation, and HALPERIN had been employed by the Mexican Government in La Financiera Nacional, S.A., and at the National School of Political and Social Sciences of the University of Mexico. In addition, an ice cream company by the name of Cia Mistram S. A., in which HALPERIN and Noah SEBORER had held stock was liquidated by them in the summer of 1957. Noah SEBORER was a member of the ACGM with HALPERIN.

10. After the decision of the Supreme Court in the Kent and Dayton cases, HALPERIN conferred with his attorney and on his attorney's advice filed an application for a passport with the American Embassy in Mexico on 26 July 1958 (presumably his wife did also), and he and his wife were issued passports on 26 August 1958.

11. In August and September 1958, newspapers in the United States carried several articles about the American Communists in Mexico and the efforts being made by the Mexican Government to have them deported. (Copies of some of these articles are attached as Attachment C.) HALPERIN's name was among those mentioned by the press. When HALPERIN commenced making plans to leave Mexico he obtained airplane reservations in the name of another person in the same manner he had used when obtaining airplane reservations for the STERNs. The HALPERINs finally departed from Mexico on 13 October 1958. At the time of his departure, the Government of Mexico had his case for deportation under consideration.

12. We received information shortly after HALPERIN's departure from Mexico that he was employed in Moscow by the USSR. This was confirmed on 15 July 1960 when the HALPERINs appeared at the American Embassy in Moscow and presented their U. S. passports for renewal. HALPERIN stated that he had been in the USSR since December 1958 and that he is employed by the USSR Academy of Sciences where he is doing research in

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the foreign field, specifically, relating to undeveloped countries. It will be recalled that HALPERIN is something of an authority on Latin American affairs. Our information indicates that this probably is the field in which he is working at the present time. The Soviet Academy of Sciences is directly subordinate to the Council of Ministers.

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Approved For Release 2001/03/07 : CIA-RDP91-00965R000500420028-3

ROUTING AND RECORD SHEET

DGC 60-1102

SUBJECT: (Optional)

FROM: AC/CI

NO.

DATE 10 1960

TO: (Officer designation, room number, and building) 25X1A9a

	DATE		OFFICER'S INITIALS	COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)
	RECEIVED	FORWARDED		

1. [Redacted] 221 EAST [Redacted] 25X1A9a Legislative Counsel

2. [Redacted]

3. [Redacted]

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Maurice Halperin

Maurice Hyman Halperin (1906–1995) was an American writer, professor, diplomat, and accused Soviet spy (NKVD code name "Hare").

Biography

Maurice Hyman Halperin was born on March 3, 1906, in Boston, Massachusetts.^{[1][2]} In 1927, he received an A.B. from Harvard College, in 1939 an MA from the University of Oklahoma, and in 1931 a doctorate from the Sorbonne.^{[1][2]}

Career

Academics

In 1930, Halperin lectured at the Sorbonne while studying there.^[2]

In 1935, Halperin traveled to Cuba with the League of American Writers to investigate possible human rights abuses. Sometime during this period, Halperin joined the Communist Party of the USA (CPUSA).

Halperin taught at the University of Oklahoma, with summer 1941 as visiting professor at the University of Florida.^[2]

Government

In late summer 1941, Halperin began working for the US federal government as a Latin American specialist.^[2] From 1941 to 1945, served as division chief (Latin America) in the Office of the Coordinator of Information, soon the Research Division of the Office of Strategic Services (OSS),^[2] and served as special assistant to Duncan Chapin Lee.^[1]

During this period, he may have become an espionage agent and agreed to provide intelligence for the Joseph Stalin-era Soviet intelligence service, the NKVD. Halperin's alleged NKVD codename was "Hare." He became a member of the Golos spy network (operated by the NKVD's chief of American operations Gaik Ovakimian).

With access to the OSS cable room, Halperin could secure copies of secret U.S. reports from any part of the world. Through the Golos spy network, Halperin provided Soviet intelligence with a large quantity of sensitive U.S. diplomatic dispatches, including reports from Ambassador John Gilbert

Maurice Halperin	
Born	Maurice Hyman Halperin <div>March 3, 1906</div> <div>Boston, Massachusetts</div>
Died	February 9, 1995 (aged 88) <div>Royal Columbia Hospital, Vancouver, British Columbia, Canada</div>
Nationality	American
Education	Harvard College, University of Oklahoma
Alma mater	Sorbonne
Occupation(s)	scholar, intelligence offer, diplomat
Employer(s)	OSS, State Department, Boston University, Simon Fraser University

Winant in London on the position of the Polish government-in-exile towards negotiations with Stalin, Turkey's foreign policy toward Romania, the State Department's instructions to the U.S. Ambassador to Spain, the U.S. embassy in Morocco's reports on that country's government, reports on the U.S. government's relationship with Vichy and Free French factions and persons in exile, reports of peace feelers from dissident Germans passed to the Vatican, U.S. attitudes towards Josip Broz Tito's Communist Front activities in Yugoslavia, and discussions between the Greek government and the United States regarding Soviet ambitions in the Balkans. Halperin also distorted OSS reports with false information in order to reflect the views of Stalin, the Soviet Union, and the Communist Party of the United States.

After the OSS was dissolved in 1945, Halperin transferred to the State Department and worked as an adviser to United States Secretary of State Dean Acheson, again on Latin American affairs.^[2] Halperin was an advisor to the United Nations at the first conference in San Francisco (with Alger Hiss serving as acting secretary general). He helped establish a Hebrew language service for the UN, beamed to Palestine.^[2]

In 1946 (or 1949^[1]), Halperin resigned from the State Department to take the position of chair of Latin American studies at Boston University.^[1]

HUAC investigation (1948)

On July 31, 1948, ex-Soviet spy Elizabeth Bentley testified under subpoena before the House Un-American Activities Committee and related details which she first shared with the FBI in 1945.^[2] In 1945, Bentley, who had inherited the Golos network, defected from the Soviet underground and sought out the Federal Bureau of Investigation. During questioning, Bentley told FBI agents that from 1942 to 1944, Halperin at OSS had delivered "to Mary Price and later to myself mimeographed bulletins and reports prepared by OSS on a variety of topics and also supplied excerpts from State Department cables to which he evidently had access." Bentley added that "some time early in 1945 'JACK', [Soviet agent Joseph Katz]^[3] the Russian contact at that time, told me that Halperin had been accused by General William J. Donovan, the head of OSS, of being a Soviet agent..."^[4] The next day, the FBI notified Harry S. Truman's White House that "according to a "highly confidential source," among those "employed by the government of the United States" who "have been furnishing data and information to persons outside the Federal government, who are in turn transmitting this information to espionage agents of the Soviet government," was "Maurice Halperin, Office of Strategic Services." Subsequent surveillance of Halperin disclosed that he was in contact with Nathan Gregory Silvermaster, Lauchlin Currie, Philip and Mary Jane Keeney, and others.

SISS investigation (1953)

In 1953, after Soviet cables were secretly decrypted by U.S. counter-intelligence, Maurice Halperin was called before the Senate Internal Security Subcommittee to defend himself on charges of espionage, at which time he lost his teaching position at Boston University.^[1] Halperin denied the charges, but nevertheless fled to Mexico and taught at the National University of Mexico.^[1] To avoid

extradition from Mexico, Halperin moved to the Soviet Union, where he studied and taught.^[1] Among the friends he made there was the British defector, Donald Maclean as well as Cuban revolutionary leader Che Guevara.

Remaining years

Disenchanted with communism in the Soviet Union, Halperin accepted Guevara's invitation to come to Havana in 1962. There, he consulted to the Ministry of Trade in the Fidel Castro government for five years and taught at the University of Havana.^[1] Political tensions forced him to leave for Vancouver, British Columbia, Canada. In Vancouver, he became a political science professor at Simon Fraser University, and wrote several books critical of Castro's government and the socio-political situation in Cuba.^[1]

Personal life and death

Halperin married and had two surviving children.^[1]

Maurice Halperin died age 88 on February 9, 1995, of a stroke at the Royal Columbia Hospital just outside Vancouver, Canada.^[1]

Legacy

After Halperin's death, the release of the *Venona project* decrypts of coded Soviet cables, as well as information gleaned from Soviet KGB archives, revealed that Halperin was involved in espionage activities on behalf of the Soviet Union while serving in an official capacity with the United States government.^{[5][6][7]}

Works

Aside from an early literary study, Halperin published three books critical of Castro:

- *Roman de Tristan et Iseut dans la littérature anglo-américaine au XIXe et au XXe siècles* (1931)^[8]
- *Rise and Decline of Fidel Castro: An Essay in Contemporary History* (1972)^[9]
- *The Taming of Fidel Castro* (1981)^[10]
- *Return to Havana* (1994)^[11]

See also

- NKVD
- Elizabeth Bentley
- Silvermaster Group
- Perlo Group
- Venona project

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Morton H. Halperin, Appellant, v. Central Intelligence Agency, 629 F.2d 144 (D.C. Cir. 1980)

US Court of Appeals for the District of Columbia Circuit - 629 F.2d 144 (D.C. Cir. 1980)

Argued 16 April 1980. Decided 11 July 1980. Rehearing Denied Aug. 7, 1980

William A. Dobrovir, Washington, D. C., for appellant. Joseph D. Gebhardt, Washington, D. C., also entered an appearance for appellant.

Al J. Daniel, Jr., Atty., Dept. of Justice, Washington, D. C., with whom Alice Daniel, Asst. Atty. Gen., Charles F. C. Ruff, U. S. Atty., and Leonard Schaitman, Atty., Dept. of Justice, Washington, D. C., were on the brief, for appellee.

Before TAMM and WILKEY, Circuit Judges, and DAVIES,^{*} United States Senior District Judge for the District of North Dakota.

Opinion for the Court filed by Circuit Judge WILKEY.

WILKEY, Circuit Judge:

Plaintiff Morton H. Halperin appeals from the district court's denial of his Freedom of Information Act (FOIA) suit for access to Central Intelligence Agency (CIA) documents detailing legal bills and fee agreements with private attorneys retained by the Agency. The

district court granted summary judgment to the CIA, finding the requested documents to be specifically exempted from FOIA disclosure by two statutes, and holding that plaintiff lacked standing to challenge the constitutionality of those statutes.

We affirm the district court's conclusion that the documents are statutorily exempted from disclosure, and we agree that under a controlling Supreme Court precedent plaintiff lacks standing. As explained later in our discussion of the issue of standing, we find it advisable to reach the merits on the constitutionality of the exempting statutes, and as an additional ground of our decision we hold that the CIA exempting statutes as applied in this case are not unconstitutional.

In 1976 plaintiff Halperin made a request to the CIA for attorney retainer agreements, fee agreements, bills and statements, and related correspondence between the CIA and any attorneys or law firms retained by the CIA to perform legal services for the Agency or its employees since 17 June 1972. Plaintiff also sought access to Agency files for the purpose of locating and inspecting the requested materials.¹

The CIA released those documents that concerned legal services rendered on an unclassified basis, but withheld documents pertaining to names of attorneys and details of legal services connected with covert or classified activities, except to release its standard contract used in retaining attorneys for classified CIA activities. In support of this action the CIA cited Exemption 1 of the FOIA for classified national defense and foreign policy documents, and Exemption 3 for documents specifically exempted by statute.²

The district court rested its summary judgment decision on Exemption 3 and found it unnecessary to decide the applicability of Exemption 1. Judge Oliver Gasch found that section 102(d) (3) of the National Security Act, 50 U.S.C. § 403(d) (3) (1976), exempted all the withheld documents through its protection of intelligence sources and methods from unauthorized disclosure. As an additional ground of decision under Exemption 3, the court found information about legal fees and similar agency expenditures in the nature of salaries to be specifically exempted by section 6 of the Central Intelligence Agency Act, 50 U.S.C. § 403g (1976).³

Plaintiff further claimed that the application of these statutes under Exemption 3 violates Article I, Section 9, Clause 7 of the United States Constitution, which requires inter alia a "statement and account" of public expenditures. In response to this argument Judge Gasch noted the Supreme Court's rejection of taxpayer standing to raise the same constitutional challenge to 50 U.S.C. § 403g in the case of *United States v. Richardson*.⁴ Judge Gasch

held that this lack of standing bars a FOIA requester as well as a taxpayer, and therefore there is no standing for plaintiff in this case.⁵

In reviewing the district court's decision, we first look at whether the court properly applied the statutes cited by the CIA as grounds for invoking FOIA Exemption 3. This exemption protects from disclosure those matters that are "specifically exempted from disclosure by statute," provided that such statute "(A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld . . ."⁶

This court has consistently held sections 403(d) (3) and 403g of Title 50 to be exempting statutes of the type described in FOIA Exemption 3.⁷ Section 403(d) (3) provides in pertinent part: "That the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure."⁸ Section 403g further provides for the exemption of the CIA from any law that requires disclosure of the organization, functions, names, official titles, salaries or numbers of personnel employed by the Agency.⁹

The district court properly applied a standard exempting under 50 U.S.C. § 403(d) (3) those documents that the Agency demonstrates "can reasonably be expected to lead to unauthorized disclosure of intelligence sources and methods."¹⁰ The Agency attempted to satisfy this standard by means of evidence presented in the deposition of John F. Blake, Deputy Director for Administration for the CIA,¹¹ and in affidavits from Blake¹² and from Robert E. Owen, Information Review Officer for the CIA.¹³ In their statements these officials presented evidence pertaining to disclosure of the two types of information under dispute, the names of attorneys retained for covert CIA activities and the legal fees paid to them by the CIA.

Concerning the disclosure of names of attorneys, Deputy Director Blake testified at a deposition that each attorney connected with covert CIA activities and implicated by plaintiff's FOIA request was an intelligence method within the meaning of section 403(d) (3), and that identification of such attorneys could reasonably be expected to lead to the disclosure of other intelligence sources and methods.¹⁴ Both CIA officials explained in their statements that disclosure of attorney names could result in harm to the individuals identified, in harm to the CIA's efforts to recruit other personnel for covert intelligence-related operations, and in harm to other intelligence sources and methods through the providing of useful leads to the intelligence agencies of hostile powers.¹⁵ Based on the affidavits and deposition, the district court concluded that the disclosure of attorney names, even with the deletion of details tending to identify the underlying transaction,

could reasonably be expected to lead to unauthorized disclosure of intelligence sources and methods.¹⁶

In reviewing this decision of the district court, we note initially that Congress has indicated that courts should give "substantial weight" to such agency statements while conducting a de novo review of agency decisions that withhold information on the basis of FOIA Exemption 1.¹⁷ The logic of this judicial review standard applies equally to all national security FOIA cases, whether they arise formally under Exemption 1 or Exemption 3.¹⁸ In past cases this court has interpreted the proper means of applying the "substantial weight" standard to Exemption 1 and Exemption 3 cases. We have held that summary judgment may be granted on the basis of agency affidavits if they contain reasonable specificity of detail rather than merely conclusory statements, and if they are not called into question by contradictory evidence in the record or by evidence of agency bad faith.¹⁹

If the agency's statements meet this standard, the court is not to conduct a detailed inquiry to decide whether it agrees with the agency's opinions; to do so would violate the principle of affording substantial weight to the expert opinion of the agency.²⁰ Judges, moreover, lack the expertise necessary to second-guess such agency opinions in the typical national security FOIA case. Within this limited standard for de novo review, we find that the CIA affidavits and deposition provide more than ample evidence to show the plausibility of the alleged potential harm, in a manner that is reasonably detailed rather than conclusory.

Appellant has presented no evidence to contradict the Agency or to show Agency bad faith. On appeal appellant rests on an argument that the Agency's explanations are conclusory, speculative, and insufficient to carry the Agency's burden of proof under a de novo standard of review in the district court.²¹ A summary of the details presented by the CIA, however, demonstrates that appellant's argument has no merit, and that the Agency's showing of potential harm is not only plausible but very convincing.

First, the CIA statements show that the disclosure of the identity of an attorney doing work for the CIA might expose him to adverse action from hostile powers. Attorneys performing services connected to CIA activities in foreign countries of course face the harshest risk from exposure of their activities, as the CIA affidavits in this case explain.²² Exposure of a CIA operative in a foreign country can further lead to embarrassment for the United States and disruption of relations with foreign countries.²³ Though the hazards for American attorneys are not so great, public disclosure of an affiliation with the CIA may have adverse consequences for them as well.²⁴

Second, the CIA's inability to protect the anonymity of its agents in any part of the world is a strong disincentive to those who are considering future employment or continued affiliation with the CIA.²⁵ Deputy Director Blake stated in his deposition that he had personal knowledge of "at least two United States attorneys who had been cooperative with us in a classified relationship who, based on continuing disclosures in the last several years, have asked that we would withdraw from the relationship with them."²⁶

Finally, as Deputy Director Blake stated in his affidavit, the "primary reason for withholding attorney's identities who are agents of the CIA in intelligence activities is that such disclosure will tend to reveal details of those activities."²⁷ Blake elaborated on this concern in his deposition:

If the name appears in the press, the name is available then to representatives of hostile, foreign intelligence services working in this country who, by a variety of techniques, can undertake courses of action to ascertain what other contacts, what other locations, and then arrive at determinations whether he is doing any other function for the Central Intelligence Agency.²⁸

The functions endangered by such disclosures include legal name changes for defectors, the creation of commercial entities, acquisitions of real estate, and settlements of affairs of deceased CIA operatives overseas.²⁹ All these functions are performed by lawyers and often require secrecy. Fears of potential harm from unauthorized disclosure of such functions are certainly reasonable, even from the perspective of someone not trained in intelligence operations.

Appellant further contends that the CIA's projection of potential harm is "pure speculation," and that the CIA is merely "hypothesizing a possible way in which intelligence methods might be revealed."³⁰ A court must take into account, however, that any affidavit or other agency statement of threatened harm to national security will always be speculative to some extent, in the sense that it describes a potential future harm rather than an actual past harm. If we were to require an actual showing that particular disclosures of the identities of CIA-retained attorneys have in the past led to identifiable concrete harm, we would be overstepping by a large measure the proper role of a court in a national security FOIA case. The question that Congress has placed before us is only whether the predicted danger is a reasonable expectation; and it is precisely on this point that a court, lacking expertise in the substantive matters at hand, must give substantial weight to agency statements, so long as they are plausible and not called into question by contrary evidence or evidence of agency bad faith.

In the present case, a stricter standard for the showing of potential harm could very seldom be satisfied. As Deputy Director Blake stated, when a hostile intelligence service is properly doing its job it can carry out various counter-intelligence operations against covert CIA operations, "without drawing attention to itself, and we have no way of knowing."³¹ Appellant's argument that the CIA has not shown any past instances of concrete harm to agency-retained lawyers³² ignores this fact, and also ignores that the purpose of national security exemptions to the FOIA is to protect intelligence sources before they are compromised and harmed, not after: "The problem is to ensure in advance, and by proper procedures, that information detrimental to national interest is not published."³³

To summarize our conclusion on the issue of exemption for names of CIA-retained attorneys, we find that the CIA has submitted reasonably detailed, nonconclusory statements showing the applicability of section 403(d) (3), that these statements are plausible on their face, and that the record contains no contrary evidence or evidence of Agency bad faith. Once substantial weight is given to these statements, there remain no substantial and material facts in dispute. The district court's grant of summary judgment is therefore entirely appropriate on the issue of disclosing names of attorneys.³⁴

On the issue of legal fees, the district court found nondisclosure to be justified by both section 403(d) (3) and section 403g of title 50. Based on CIA statements, the court concluded that disclosure of legal fees could reasonably be expected to lead to unauthorized disclosure of intelligence sources and methods under section 403(d) (3), because trained foreign personnel could gain useful insights from such information.³⁵

On review we apply the same standards described above for the issue of attorney names. Appellant has not offered evidence to contradict the Agency or to show Agency bad faith. The issue is whether the Agency's statements contain reasonable specificity of detail to support the district court's application of section 403(d) (3).

The Agency's general rationale for refusing to disclose rates and total fees paid to attorneys is that such information could give leads to information about covert activities that constitute intelligence methods. For example, if a large legal bill is incurred in a covert operation, a trained intelligence analyst could reason from the size of the legal bill to the size and nature of the operation.³⁶ This scenario raises a reasonable possibility of harm to the covert activity following from disclosure of the size of legal fees.³⁷ We note that the CIA's showing of potential harm here is not so great as its showing concerning attorney names. We must take into account, however, that each individual piece of intelligence information, much like a piece of jigsaw puzzle, may aid in piecing together other bits of information even when the individual piece is not of obvious importance in itself. When

combined with other small leads, the amount of a legal fee could well prove useful for identifying a covert transaction. Viewed in this light, the Agency's statements offer sufficient plausible detail for a court to accord substantial weight to the statements and accept the Agency's expert judgment on the potential effects of disclosing legal fees. We therefore affirm the district court's application of section 403(d) (3) to this matter.

The district court also found legal fees to be protected from FOIA disclosure by section 403g of Title 50. This section, quoted above,³⁸ protects against the disclosure of the "organization, functions, names, official titles, salaries, or numbers of personnel employed by the Agency." The district court held that CIA expenditures for legal fees fall within this language, since they are "in the nature of salaries."³⁹ Appellant contends that CIA-retained attorneys are not personnel employed by the CIA and that payments to them are not "salaries."⁴⁰

Concerning the first of these contentions, it is true that the CIA's standard retainer agreement defines the status of a retained attorney as "independent contractor" and disclaims any employee-employer relationship.⁴¹ There are of course lines of cases, cited by appellant, that distinguish between employees and independent contractors for various legal purposes.⁴² We note, however, that section 403g does not use the term of art "employee" but rather the phrase "personnel employed by the agency." To determine the proper meaning of this phrase in context, we must examine the indications of congressional intent rather than apply a formalistic distinction between employee and independent contractor which was created for legal contexts far removed from section 403g.

Section 403g itself contains language indicating Congress's intent. Congress enacted the section to promote "the interests of security of the foreign intelligence activities of the United States," and to further the protection of "intelligence sources and methods from unauthorized disclosure"⁴³ The foreign intelligence activities of the United States are frequently carried out by personnel who have no formal or regular employee status with the CIA. The nature of the CIA's intelligence function often requires the services of persons affiliated with the Agency only temporarily; this is obviously the case with the services of private attorneys needed from time to time in connection with clandestine CIA activities. Such employment relationships are integral and essential to many Agency functions.

Only by recognizing such personnel as "employed by the Agency" within the language of section 403g can we give reasonable effect to the congressional intent in that section to protect the security of foreign intelligence activities and to further the protection of intelligence sources and methods. The further congressional intent to protect "the

confidential nature of the Agency's functions"⁴⁴ leaves no room for a fine and formalistic distinction between functions performed by CIA staff attorneys operating under cover and functions performed by private attorneys pursuant to contract. A contrary interpretation could seriously impair the CIA's ability to conduct classified operations with temporarily affiliated personnel.

These same expressions of congressional intent preclude an interpretation of the term "salaries" that would include only payments to regularly employed CIA staff personnel. Payments to clandestine temporarily affiliated personnel are at least as, probably more, likely to reveal intelligence sources and methods as are payments to CIA staff. To give section 403g the scope Congress evidently intended, we must include as "salaries" any payments made in compensation for services performed by personnel employed by the Agency.

In light of express congressional intent, we hold that such payments to CIA-retained attorneys are in the nature of salaries to personnel employed by the CIA, and are therefore within the listing of specific information protected from disclosure under section 403g. The requested information about legal fees is thus within the narrow interpretation of section 403g described in this court's previous opinions.⁴⁵

We therefore affirm the district court's exemption of legal fees under both section 403g and section 403(d) (3) of Title 50. Summary judgment was appropriate under these circumstances because, giving substantial weight to the Agency statements under the standards described above, the CIA has succeeded in carrying its burden of showing that no substantial and material facts remain in dispute and that the Agency is entitled to judgment as a matter of law.⁴⁶

Since the requested documents were properly found to be within the provisions of two Exemption 3 statutes, appellant can prevail only if those statutes are held unconstitutional. Appellant claims that the statutes, insofar as they prevent disclosure of information about CIA expenditures, violate Article 1, Section 9, Clause 7 of the United States Constitution (hereinafter "Clause 7" or "Statement and Account Clause"), which provides: "No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time."

For appellant to challenge the CIA's Exemption 3 statutes on constitutional grounds, he must first show that he has standing to raise this issue. Unfortunately for appellant, the Supreme Court decided a similar question of standing in *United States v. Richardson*.⁴⁷ In

Chief Justice Burger's opinion the Court held that a federal taxpayer does not have standing to raise a constitutional challenge under the Statement and Account Clause against those provisions of the Central Intelligence Agency Act of 1949 which require secrecy for the appropriations and expenditures of the CIA, the very provisions at issue here.

Appellant attempts to distinguish Richardson on grounds that he has standing under the FOIA, while Richardson claimed standing only as a taxpayer. The merit of this distinction depends on the breadth the Supreme Court intended for its Richardson holding. We find that the language of Richardson indicates that the Supreme Court intended a holding broad enough to cover all challenges to the CIA Act under the Statement and Account Clause, whether by a mere taxpayer or by a FOIA plaintiff.

The key fact in Richardson was that the injury alleged by plaintiff was undifferentiated and common to all members of the public.⁴⁸ In the present case this key fact is unchanged; like Richardson, plaintiff here has not shown the "particular concrete injury" required for standing.⁴⁹

That the Supreme Court intended a holding broad enough to cover the present case is further suggested by the Court's willingness to accept the prospect that no one would ever have standing to challenge CIA fiscal secrecy. The opinion of the Court observed that "the absence of any particular individual or class to litigate these claims gives support to the argument that the subject matter is committed to the surveillance of Congress, and ultimately to the political process."⁵⁰ This statement is a broad holding, applying to other persons and circumstances, rather than one narrowed to Richardson and the facts of his suit. The argument for committing the matter to Congress and the political process, rather than to the courts, applies with equal logical force against a FOIA plaintiff as against a citizen or taxpayer plaintiff.

We recognize that it can be reasonably argued that the FOIA creates a new situation in which a plaintiff such as Halperin or Richardson can now claim standing not merely as a taxpayer, but as a person who has suffered concrete injury in the denial of a statutorily authorized FOIA request for CIA budget information. But the facts as well as the reasoning of the Richardson case convince us that this precedent precludes standing for FOIA plaintiff Halperin. The FOIA is not a new factor added since Richardson was decided; the FOIA existed at the time of the Richardson case, was in fact cited as a ground of jurisdiction in Richardson's complaint,⁵¹ and was mentioned in a footnote to the opinion for the Court without any intimation that it might provide a loophole through which plaintiff could gain

standing.⁵² Mr. Justice Stewart's dissenting opinion in Richardson noted the logical implications of the majority's holding for standing of a FOIA plaintiff:

For example, the Freedom of Information Act creates a private cause of action for the benefit of persons who have requested certain records from a public agency and whose request has been denied. . . . it confers a right on "any person" to receive those records, subject to published regulations regarding time, place, fees, and procedure. The analogy, of course, is clear. If the Court is correct in this case in holding that Richardson lacks standing under Art. III to litigate his claim that the Statement and Account Clause imposes an affirmative duty that runs in his favor, it would follow that a person whose request under 5 U.S.C. § 552 has been denied would similarly lack standing under Art. III despite the clear intent of Congress to confer a right of action to compel production of the information.⁵³

For a FOIA plaintiff as well as a taxpayer, the constitutional objection to the CIA's fiscal secrecy is shared in common with all members of the public, and under the logic of Richardson this factor bars standing.⁵⁴ The facts and reasoning of the Richardson decision, as discussed above, point to the conclusion that, at least for statutes protecting CIA fiscal secrecy, the FOIA does not create standing to challenge the constitutionality of the CIA's budgetary secrecy.

Two district courts have reached the same conclusion, holding that CIA budget secrecy statutes cannot be challenged on constitutional grounds by FOIA plaintiffs, albeit without elaborating their reasoning. One of these cases arose soon after the Supreme Court's Richardson decision, when plaintiff Richardson filed a FOIA complaint against the CIA and the Treasury Department, once more seeking access to CIA financial records. Judge Gourley of the Western District of Pennsylvania found those records to be within Exemption 1 and Exemption 3 of the FOIA and thus not subject to disclosure.⁵⁵ As to the constitutionality of the exempting statutes the court did not express a view; but in light of Richardson's claim that he raised a constitutional challenge under the Statement and Account Clause,⁵⁶ the district court's decision implicitly assumes that he could not validly make the challenge.

The second district court case followed nearly identical lines, with a FOIA suit filed by the same Halperin who appeals now. Judge John Lewis Smith of the D.C. District Court found the requested CIA budget data to be within Exemption 3, and did not comment on the constitutionality of the exempting statutes except by implication in a "see also" cite to *United States v. Richardson*.⁵⁷

Based on the reasoning of Richardson and the example of these two district court decisions, we affirm the district court's holding here that plaintiff lacks standing to challenge the constitutionality of the Exemption 3 statutes that ensure secrecy for CIA fiscal data. In applying the logical implications of the Richardson decision to this case, we acknowledge that the majority of the Supreme Court did not expressly consider in that case whether a plaintiff in the position of Richardson or Halperin might have standing specifically under the FOIA. Especially in light of the narrow 5-4 margin of decision in Richardson, we do not overlook the possibility that the Supreme Court could narrow the Richardson holding so as not to bar standing for a FOIA plaintiff to challenge the constitutionality of the exempting statutes.

With this possibility in mind, and considering that judicial economy is best served by our resolving all relevant issues at this stage, we proceed to consider the merits of plaintiff's constitutional claim as an equal alternative ground of our decision. Although the district court did not address this issue, we decline to remand for further argument and fact-finding at the trial court level, since the issue is purely one of law and the relevant considerations have been substantially briefed here by both parties.

IV. CONSTITUTIONALITY AND JUSTICIABILITY OF STATUTORY

SECRECY FOR CIA EXPENDITURES

Appellant claims that sections 403(d) (3) and 403g of Title 50 are unconstitutional insofar as they authorize the withholding of CIA expense data approved by the district court in this case.⁵⁸ The CIA replies that under the political question doctrine the Statement and Account Clause does not present a justiciable matter.⁵⁹ Finding the political question doctrine closely bound up with the merits, we investigate the history of the Statement and Account Clause for the light it sheds on both questions. Our inquiry takes notice of a broad range of evidence from our nation's early history, focusing throughout on whether the Statement and Account Clause was intended to require the public disclosure of such information as is requested here. Relevant to this inquiry are several major categories of historical evidence, including statements by the Framers of the Clause, statements reflecting a contemporaneous understanding of the Framers' intent, and governmental practices with regard to disclosure of similar information both before and after the enactment of the Constitution.

The Statement and Account Clause was first proposed in the final week of the Constitutional Convention, when George Mason moved on 14 September 1787 that a clause be adopted requiring "that an Account of the public expenditures should be annually

published."⁶⁰ In the initial debate on this proposal, Gouveneur Morris urged that such accounting would be "impossible in many cases," and Rufus King remarked that it would be "impracticable" to account for "every minute shilling."⁶¹ James Madison then proposed an amendment to require an accounting "from time to time" rather than annually. The Convention adopted this amendment and enacted Clause 7 in its presently existing form. The debate surrounding the adoption of Madison's amendment proves important for our inquiry. Farrand gives a brief account of the debate at the Convention, taken from Madison's notes. Madison thought that the substitution of "from time to time" for "annually" would ensure frequent publication and "leave enough to the discretion of the Legislature."⁶² Madison's notes from the Convention do not elaborate on the concept of legislative discretion, except to say that if too much is required, "the difficulty will beget a habit of doing nothing."⁶³

The rationale behind Madison's amendment came more fully to light in the debate in the Virginia ratifying convention. On 12 June 1788 Madison stated that under the Constitution as proposed, congressional proceedings were to be "occasionally published," and that this requirement included all receipts and expenditures of public money.⁶⁴ He praised this as a security not enjoyed under the then existing system of government. Then, in a sentence reflecting on the degree of discretion to be allowed under Clause 7, he stated: "That part which authorizes the government to withhold from the public knowledge what in their judgment may require secrecy, is imitated from the confederation that very system which the gentleman advocates."⁶⁵ Although we would hesitate to draw a firm conclusion from this passage alone, Madison's language strongly indicates that he believed that the Statement and Account Clause, following his amendment, would allow government authorities ample discretion to withhold some expenditure items which require secrecy.

Any ambiguity in Madison's statement is removed, moreover, by a more lengthy debate that occurred five days later on 17 June 1788 between Madison and George Mason. Arguing against Madison's "from time to time" provision, Mason criticized it as too loose an expression. He then summarized the arguments made by proponents of the provision:

The reasons urged in favor of this ambiguous expression, was (sic), that there might be some matters which might require secrecy. In matters relative to military operations, and foreign negotiations, secrecy was necessary sometimes. But he did not conceive that the receipts and expenditures of the public money ought ever to be concealed. The people, he affirmed, had a right to know the expenditures of their money.⁶⁶

Mason's statement clarifies several points concerning the Framers' intent. First, it appears that Madison's comment on governmental discretion to maintain the secrecy of some

expenditures, far from being an isolated statement, was representative of his fellow proponents of the "from time to time" provision. Second, as to what items might legitimately require secrecy, the debates contain prominent mention of military operations and foreign negotiations, both areas closely related to the matters over which the CIA today exercises responsibility. Finally, we learn that opponents of the "from time to time" provision, exemplified by Mason, favored secrecy only for the operations and negotiations themselves, not for receipts and expenditures of public money connected with them. But the Statement and Account Clause, as adopted and ratified, incorporates the view not of Mason, but rather of his opponents, who desired discretionary secrecy for the expenditures as well as the related operations.

In reply to Mason's argument, Madison did not pursue the point on the need for secrecy, but argued that publication from time to time would provide more satisfactory and fuller reports to the public and would be of sufficient frequency. He added that he believed "this provision went farther than the constitution of any state in the union, or perhaps in the world."⁶⁷ The remainder of the exchange between Madison and Mason was brief, and did not touch on secrecy of expenditures.⁶⁸

In addition to the statements of Madison and Mason, we find only one other statement from the Virginia ratifying convention expressing a view on the secret expenditure issue. This is a statement of Patrick Henry on 15 June 1788, apparently expressing a fear of the effect of the "from time to time" provision: "By that paper the national wealth is to be disposed of under the veil of secrecy; for the publication from time to time will amount to nothing, and they may conceal what they may think requires secrecy. How different it is in your own government!"⁶⁹ Though perhaps more exaggerated than Mason's language, Henry's statement further confirms our interpretation of the Madison-Mason debate.

Viewed as a whole, the debates in the Constitutional Convention and the Virginia ratifying convention convey a very strong impression that the Framers of the Statement and Account Clause intended it to allow discretion to Congress and the President⁷⁰ to preserve secrecy for expenditures related to military operations and foreign negotiations. Opponents of the "from time to time" provision, it is clear, spoke of precisely this effect from its enactment. We have no record of any statements from supporters of the Statement and Account Clause indicating an intent to require disclosure of such expenditures.

The direct evidence of the intent of the Framers, then, indicates that the Statement and Account Clause does not require disclosure of such expenditures as appellant requests in the present case. Though we would be confident in resting on this evidence alone, we find

yet further confirmation in the historical evidence of government practices with regard to disclosure and secrecy both before and after the enactment of the Constitution.

Our nation's earliest intelligence activities were carried out by the Committee of Secret Correspondence of the Continental Congress. The Continental Congress created the Committee on 29 November 1775 to "correspond with our friends in Great Britain, Ireland and other parts of the world," and Congress resolved to provide for expenses incurred by the Committee in sending "agents" for this purpose.⁷¹ In carrying out these duties the Committee placed great importance upon secrecy. In reference to information from its agent Arthur Lee, describing French plans to send arms and ammunition to the Continental Army, the Committee stated: "Considering the nature and importance of it, we agree in opinion, that it is our indispensable duty to keep it a secret, even from Congress We find by fatal experience, the Congress consists of too many members to keep secrets."⁷²

The Committee exercised broad discretionary power to conduct intelligence activities independent of the Continental Congress and to safeguard the secrecy of matters pertaining to its agents, though Congress asserted greater direct control following the Declaration of Independence.⁷³ It is especially remarkable that the Committee was in a position to insist upon secrecy even against Congress, which functioned both as the legislative and the executive power at this time and exercised control over foreign affairs.

The importance of total secrecy in intelligence matters was appreciated in this era at the highest levels. In a letter of 26 July 1777 issuing orders for an intelligence mission, General Washington wrote to Colonel Elias Dayton: "The necessity of procuring good Intelligence, is apparent and need not be further urged. All that remains for me to add is, that you keep the whole matter as secret as possible. For upon secrecy, success depends in most Enterprises of the kind, and for want of it, they are generally defeated"⁷⁴

As commander-in-chief of the colonial armies, Washington made full provision for intelligence activities and for proper funding. The details of Washington's planning in this regard are highlighted by a letter to Washington from financier Robert Morris, member of the Committee of Secret Correspondence, dated 21 January 1783, in which Morris stated that

I will give directions to the Paymaster General always to keep some money in the hands of his deputy, to answer your drafts for contingencies and secret service. I have, as you will see, taken methods to put the deputy in cash, and then your excellency will be relieved from any further care than the due application. I am, however, to pray, for the sake of regularity

in accounts, that your excellency, in the warrants, would be so kind as to specify the particular service when on the contingent account, and draw in favor of one of your family on account of secret services, mentioning that it is for secret service. I shall direct Mr. Swanwick to endorse the bills on you in favor of Mr. Adams to the Paymaster General, whose deputy will receive from your excellency the amount.⁷⁵

It is significant that this letter indicates first, the provision of a cash account before the particular necessities could be specified, and second a practice of drawing the funds in favor of Washington's family, apparently to conceal the ultimate recipient of those funds. Rather than viewing such arrangements as devious or criminal, it is clear that our highest officials in the War for Independence viewed them as entirely proper and moreover essential to the success of their enterprise.

When a new governmental structure came into operation in 1789 under the Constitution, secret funding for foreign intelligence activities quickly became institutionalized in the form of a "contingent fund" or "secret service fund" at the disposal of the President. The initial impetus for this fund can be found in President Washington's address to both Houses of Congress on 8 January 1790, the precursor to the "State of the Union" message, in which he requested "a competent fund designated for defraying the expenses incident to the conduct of our foreign affairs."⁷⁶ The first step in the creation of such a fund occurred in July of that year, when Congress appropriated funds for "persons to serve the United States in foreign parts."⁷⁷ In this appropriation act Congress required of the President a regular statement and account of the expenditures, but made allowance for "such expenditures as he may think it advisable not to specify."⁷⁸

Three years later Congress re-enacted the statute, with altered language that permitted the President to make secret expenditures without specification, by making a certificate or having the Secretary of State make a certificate for the amount of the expenditure, such certificate to be deemed a "sufficient voucher" for the sum or sums expended.⁷⁹ This provision enabled President Washington and his successors to preserve strict secrecy for expenditures related to foreign intelligence and negotiations. Throughout subsequent years this fund continued in effect without, to our knowledge, any challenge based on the Statement and Account Clause.

In 1811 Madison himself made use of a special secret funding provision from Congress for contingency plans to take possession of parts of Spanish Florida. In response to a confidential message from President Madison, Congress passed a secret act appropriating \$100,000 for such expenses as the President might deem necessary for obtaining

possession.⁸⁰ Though approved on 15 January 1811, this act was not published until 1818.⁸¹

The establishment of these secret funding practices so soon after the Constitutional Convention indicates a contemporaneous understanding that the Framers of Clause 7 did not intend it to require disclosure of expenditures for secret military and foreign diplomacy matters. It is difficult to imagine stronger contemporaneous evidence of the Framers' intent, when one considers that the contingent fund was initially requested by President Washington, who presided over the Constitutional Convention in 1787, and that a further secret funding measure was enacted under Madison, who in his earlier role as "Father of the Constitution"⁸² had introduced the "from time to time" amendment.

The contingent fund remained in continuous use by the President throughout the nineteenth century and up to the creation of the CIA in the mid-twentieth century. Several quotations from American statesmen of the nineteenth century suffice to summarize for our purposes the nature of the contingent fund and its longstanding acceptance within our constitutional structure. During a debate on 25 February 1831 concerning a treaty between the United States and Turkey, Senator John Forsyth stated:

(T)he experience of the confederation having shown the necessity of secret confidential agencies in foreign countries, very early in the progress of the Federal Government, a fund was set apart, to be expended at the discretion of the President of the United States on his responsibility only, called the contingent fund of foreign intercourse. . . . But on what ground does the gentleman narrow down the use of this contingent fund? It was given for all purposes to which a secret service fund should or could be applied for the public benefit. For spies, if the gentlemen (sic) pleases; for persons sent publicly and secretly to search for important information, political or commercial; for agents to carry confidential instructions, written or verbal, to our foreign ministers, where secrecy was the element of success; for agents to feel the pulse of foreign Governments Such uses have been frequently made of this fund: indeed, the propriety of thus using it is now, for the first time, doubted.⁸³

A statement of President Tyler in 1844 further clarifies the common understanding during the first half of the nineteenth century concerning presidential use and congressional authorization of the contingent fund. Upon a Senate inquiry concerning the employment of a Mr. Duff Green to acquire information in England related to the matter of the Oregon Territory, President Tyler replied to the Senate:

Although the contingent fund for foreign intercourse has for all time been placed at the disposal of the President, to be expended for the purposes contemplated by the fund

without any requisition upon him for a disclosure of the names of persons employed by him, the objects of their employment, or the amount paid to any particular person, and although any such disclosures might in many cases disappoint the objects contemplated by the appropriation of that fund, yet in this particular instance I feel no desire to withhold the fact that Mr. Duff Green was employed by the Executive to collect such information, from private or other sources, as was deemed important to assist the Executive in undertaking a negotiation then contemplated, but afterwards abandoned, upon an important subject, and that there was paid to him through the hands of the Secretary of State \$1,000, in full for all such service.⁸⁴

President Polk, taking an even firmer stance based on this tradition than did Tyler, refused to accede to the request of the House of Representatives for disclosure of expenditures from the contingent fund. On 20 April 1846 he gave his reply as follows:

The expenditures for this confidential character, it is believed, were never before sought to be made public, and I should greatly apprehend the consequences of establishing a precedent which would render such disclosures hereafter inevitable. . . .

The experience of every nation on earth has demonstrated that emergencies may arise in which it becomes absolutely necessary for the public safety or the public good to make expenditures the object of which would be defeated by publicity.⁸⁵

These statements of Presidents Polk and Tyler, far from being exceptional or abusive, appear to typify the attitude of our government toward secret expenditures for foreign intelligence operations, beginning with the Committee of Correspondence during the War for Independence, and running consistently through the Constitutional Convention and the era following it. In the debates on these issues no one expressed a belief that disclosure of intelligence-related expenditures might be constitutionally required. At most disclosure might come about if Congress decided that it should; but even when Congress demanded such information, our early Presidents were often able to raise a claim of privilege for sensitive Executive documents.⁸⁶

Our survey of historical evidence persuades us that secrecy of intelligence efforts, including expenditures, was a practice of General Washington during the War for Independence; that the Framers, by adopting the Statement and Account Clause in Madison's amended form, intended Congress and the President to have discretion to maintain the secrecy of intelligence expenditures; that from the time of the first Congress our government in fact provided for such secrecy pursuant to statute; and that the contingency fund for secret expenditures continued in use through the next century for purposes of foreign intelligence. Those who voiced criticism toward the practice of secret expenditures, such as

Mason and Henry, prove to be a dissenting minority whose opinions contrast clearly with the prevailing view of the Framers and also with the prevailing practice of our government during the late eighteenth and nineteenth centuries.⁸⁷

In light of this historical evidence, we can see that when Congress enacted the Central Intelligence Agency Act of 1949,⁸⁸ creating the CIA, it merely continued a longstanding practice of secret expenditures for foreign intelligence matters. Although some particulars were changed, the structure for maintaining fiscal secrecy remained essentially the same. For example, under earlier practice the aggregate amount spent on foreign intelligence was concealed by inclusion in the overall contingent fund appropriation, which provided for considerably more activities than just foreign intelligence. Under the current practice with the CIA, subcommittees of the House and Senate Appropriations Committees review CIA budget requests in executive session. That level of Agency funding approved by the subcommittees is included in the appropriations of other agencies, upon which the full House and Senate vote. Funds thus approved are then transferred from various agencies to the CIA pursuant to section 403f of Title 50.

Along with secrecy for the entire CIA budget, Congress has provided for secrecy of individual CIA expenditure items by means of statutes, including those at issue here, sections 403(d) (3) and 403g of Title 50. Section 8(b) of the CIA Act protects the secrecy of expenditures by means of the following provision:

The sums made available to the Agency may be expended without regard to the provisions of law and regulations relating to the expenditure of Government funds; and for objects of a confidential, extraordinary, or emergency nature, such expenditures to be accounted for solely on the certificate of the Director and every such certificate shall be deemed a sufficient voucher for the amount therein certified.⁸⁹

This provision is similar to secrecy provisions from our nation's early history, and to secrecy provisions for other agencies for which Congress has found a need for fiscal secrecy, for example, the Federal Bureau of Investigation⁹⁰ and the Nuclear Regulatory Commission.⁹¹ The similarity of the CIA Act to the early contingent fund practice is illustrated by a comparison of the above-quoted language with that of the first secret fund statutory provision, as re-enacted and revised in 1793. The 1793 statute provided that secret expenditures were to be accounted for merely by a certificate from the Secretary of State, such certificate to be deemed a "sufficient voucher."⁹² The CIA Act follows the same procedure, with the CIA Director performing the role formerly given the Secretary of State.

The same correspondence with traditional practice is seen in sections 403(d) (3) and 403g of Title 50. Both sections protect secrecy for expenditures related to foreign intelligence activities, of the sort for which Presidents Tyler and Polk demanded secrecy, and for which James Madison and a majority of the Framers provided discretionary secrecy in the "from time to time" amendment to the Statement and Account Clause.

We must conclude from the constitutional debates, from the apparent contemporaneous understanding of what the Framers of Clause 7 intended, and from the continuous practice dating from the early years of the Republic, that the Statement and Account Clause does not create a judicially enforceable standard for the required disclosure of expenditures for intelligence activities. On the contrary, it appears that the Framers of this clause intended Congress and the Executive to have discretion to decide whether, when, and in what detail intelligence expenditures should be disclosed to the public. Since the decision to disclose materials of this nature is committed to a coordinate branch of the government, it is a nonjusticiable political question.⁹³ Courts therefore have no jurisdiction to decide whether, when, and in what detail intelligence expenditures must be disclosed.

This conclusion has already been suggested by the Supreme Court in dictum to its Richardson opinion. As to the intent of the Framers, the Court observed that the genesis of Clause 7 "suggests that it was intended to permit some degree of secrecy of governmental operations."⁹⁴ Touching on the justiciability question, the Court doubted whether such "general directives to the Congress and Executive" were intended to be enforced by suit of a citizen.⁹⁵ Although the Court did not decide what precisely was meant by a "regular Statement and Account," it did say that "it is clear that Congress has plenary power to exact any reporting and accounting it considers appropriate in the public interest."⁹⁶

In a separate case our court has similarly adopted the view that Congress has full discretion to define the appropriations process and concomitant reporting requirements.⁹⁷ Our more detailed analysis of historical evidence in the present case amply confirms that the Framers of the Clause intended it to leave discretion in Congress and the Executive to define reporting requirements for foreign intelligence operations and related expenditures.

That Congress has discretion to maintain secrecy for the intelligence expenditures involved in the present case is further evident from the detailed and particularized nature of these expenditure items. The earliest statements and accounts of public expenditures were not more specific than each "head of appropriation,"⁹⁸ and present day statements of budget and expenditure figures are similarly made according to category rather than individual detailed items.⁹⁹ We have already cited expressions of concern at the Constitutional Convention that extremely detailed accounting would be "impracticable."¹⁰⁰ To require a

public accounting of the specific fee paid to an individual attorney would invade the area of discretion that the Framers allowed to Congress on this point.

Moreover, in light of the CIA deposition and affidavits submitted in this case, it is clear that particular expenditure items for specific covert operations are among the most sensitive of CIA budget items; their disclosure could lead to the uncovering of covert operations themselves. The grave harm that could follow from such detailed disclosures of intelligence expenditures confirms the wisdom of the Framers of Clause 7 in endorsing the legislative discretion inherent in the "from time to time" language proposed by Madison. It is typical of their foresight and prudence that the Framers did not create a disclosure provision so inflexible that it might in the future eviscerate the secret military and diplomatic functions that are often essential to our nation's strength and survival.

In light of our analysis we must hold that Congress and the President have discretion, not reviewable by the courts, to require secrecy for expenditures of the type involved in this case. We therefore uphold the constitutional authority of Congress to protect the secrecy of the expenditures here in question by means of such statutes as sections 403(d) (3) and 403g of Title 50. We so hold as a ground additional and alternative to our holding that appellant lacks standing.

The decision before is therefore

Affirmed.

Sitting by designation pursuant to 28 U.S.C. § 294(d)

See Halperin v. CIA, No. 77-1859, slip op. at 1-2 (D.D.C. 25 July 1979)

5 U.S.C. § 552(b) (1), (3) (1976)

See Halperin v. CIA, No. 77-1859, slip op. at 4-7 (D.D.C. 25 July 1979)

418 U.S. 166, 94 S. Ct. 2940, 41 L. Ed. 2d 678 (1974)

See Halperin v. CIA, No. 77-1859, slip op. at 7 (D.D.C. 25 July 1979)

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5 U.S.C. § 552(b) (3) (1976)

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See Goland v. CIA, 607 F.2d 339, 349-50 (D.C. Cir. 1978), cert. denied, 445 U.S. 927, 100 S. Ct. 1312, 63 L. Ed. 2d 759 (1980); Ray v. Turner, 587 F.2d 1187, 1196 (D.C. Cir. 1978); Baker v. CIA, 580 F.2d 664, 668-69 (D.C. Cir. 1978); Weissman v. CIA, 565 F.2d 692, 694 (D.C. Cir. 1977); Phillippi v. CIA, 546 F.2d 1009, 1015 n.14 (D.C. Cir. 1976)

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50 U.S.C. § 403(d) (3) (1976)

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Section 403g provides:

In the interests of the security of the foreign intelligence activities of the United States and in order further to implement the proviso of section 403(d) (3) of this title that the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure, the Agency shall be exempted from the provisions of . . . any other law which require the publication or disclosure of the organization, functions, names, official titles, salaries, or numbers of personnel employed by the Agency: Provided, That in furtherance of this section, the Director of the Office of Management and Budget shall make no reports to the Congress in connection with the Agency under section 607 of the Act of June 30, 1945, as amended (5 U.S.C. 947(b)).

Id. § 403g (1976).

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Halperin v. CIA, No. 77-1859, slip op. at 5 (D.D.C. 25 July 1979). See Phillippi v. CIA, 546 F.2d 1009, 1015 n.14 (D.C. Cir. 1976)

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See Joint Appendix (J.A.) at 17

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See id. at 5, 12

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See Record at 10

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See Halperin v. CIA, No. 77-1859, slip op. at 5-6 (D.D.C. 25 July 1979)

5

See Affidavit of John F. Blake, J.A. at 8; Affidavit of Robert E. Owen P 8, Record at 10; Deposition of John F. Blake, J.A. at 44-45

6

See Halperin v. CIA, No. 77-1859, slip op. at 6 (D.D.C. 25 July 1979)

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S.Rep.No.1200, 93d Cong., 2d Sess. 12 (1974), U.S.Code Cong. & Admin.News 1974, pp. 6267, 6290. See Hayden v. NSA, 608 F.2d 1381, 1384, 1387 (D.C. Cir. 1979), cert. denied, --- U.S. ----, 100 S. Ct. 2156, 64 L. Ed. 2d 790 (1980)

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Cf. Founding Church of Scientology v. NSA, 610 F.2d 824, 836 (D.C. Cir. 1979); Goland v. CIA, 607 F.2d 339, 352 (D.C. Cir. 1978) (applying "substantial weight" standard of review to Exemption 3 case), cert. denied, 445 U.S. 927, 100 S. Ct. 1312, 63 L. Ed. 2d 759 (1980)

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See Hayden v. NSA, 608 F.2d 1381, 1387 (D.C. Cir. 1979), cert. denied, --- U.S. ----, 100 S. Ct. 2156, 64 L. Ed. 2d 790 (1980) (No. 79-1334); Founding Church of Scientology v. NSA, 610 F.2d 824, 836 (D.C. Cir. 1979); Goland v. CIA, 607 F.2d 339, 352 (D.C. Cir. 1978), cert. denied, 445 U.S. 927, 100 S. Ct. 1312, 63 L. Ed. 2d 759 (1980); Ray v. Turner, 587 F.2d 1187, 1194-95 (D.C. Cir. 1978); Weissman v. CIA, 565 F.2d 692, 697-98 (D.C. Cir. 1977)

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Cf. Hayden v. NSA, 608 F.2d 1381, 1388 (D.C. Cir. 1979) ("for us to insist that the Agency's rationale here is implausible would be to overstep the proper limits of the judicial role in FOIA review"), cert. denied, --- U.S. ----, 100 S. Ct. 2156, 64 L. Ed. 2d 790 (1980)

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See Brief for Appellant at 27-28

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See Affidavit of John F. Blake, J.A. at 8. See also Snapp v. United States, 444 U.S. 507, 512, 100 S. Ct. 763, 767, 62 L. Ed. 2d 704 (1980) ("The continued availability of these foreign

sources depends upon the CIA's ability to guarantee the security of information that might compromise them and even endanger the personal safety of foreign agents.")

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See Affidavit of John F. Blake, J.A. at 8

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See id.; Deposition of John F. Blake, J.A. at 42-45

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See Affidavit of John F. Blake, J.A. at 8

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Deposition of John F. Blake, J.A. at 44-45

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Affidavit of John F. Blake, J.A. at 9

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Deposition of John F. Blake, J.A. at 42

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See Affidavit of John F. Blake, J.A. at 9

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Brief for Appellant at 27

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Deposition of John F. Blake, J.A. at 43

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See Brief for Appellant at 27

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Snapp v. United States, 444 U.S. 507, 513, 100 S. Ct. 763, 767 n.8, 62 L. Ed. 2d 704 (1980) (emphasis in original)

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See, e. g., *Founding Church of Scientology v. NSA*, 610 F.2d 824, 836 (D.C. Cir. 1979)

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See Halperin v. CIA, No. 77-1859, slip op. at 7 (D.D.C. 25 July 1979)

16

See Deposition of John F. Blake, J.A. at 51

17

See Supplemental Affidavit of John F. Blake, J.A. at 14

18

See note 9 supra

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Halperin v. CIA, No. 77-1859, slip op. at 7 (D.D.C. 25 July 1979)

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See Brief for Appellant at 20-21

11

Exhibit to Affidavit of John F. Blake, J.A. at 10-11

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See Brief for Appellant at 21

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50 U.S.C. § 403g (1976). For full text of this section, see note 9 supra

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S.Rep.No.106, 81st Cong., 1st Sess. 1 (1949) (stating purpose of CIA Act of 1949, of which section 403g is a part)

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See Baker v. CIA, 580 F.2d 664, 670 (D.C. Cir. 1978); Phillippi v. CIA, 564 F.2d 1009, 1015 n.14 (D.C. Cir. 1976)

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See, e. g., Founding Church of Scientology v. NSA, 610 F.2d 824, 836 (D.C. Cir. 1979)

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418 U.S. 166, 94 S. Ct. 2940, 41 L. Ed. 2d 678 (1974)

i8

See *id.* at 177, 94 S. Ct. at 2946

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Id.

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Id. at 179, 94 S. Ct. at 2947

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See Complaint PP 6, 56, *United States v. Richardson*, reprinted in 13 U.S. Supreme Court, Transcripts of Records and File Copies of Briefs, 1973, No. 72-885, Appendix at 3, 15. The nature of Richardson's suit is not precisely defined by his complaint. From the complaint as a whole, however, it is evident that Richardson requested CIA expenditure reports from the Treasury Department, that his request was denied on the basis of the CIA exempting statutes among other reasons, that he challenged CIA fiscal secrecy on the basis of Article I, Section 9, Clause 7 of the Constitution, and that he sought injunctive relief pursuant to the FOIA and other statutory provisions. See *id.* PP 6, 9-12, reprinted in 13 U.S. Supreme Court Transcripts of Records and File Copies of Briefs, 1973, No. 72-885, Appendix at 3-5. In these aspects his suit bore a substantial resemblance to a FOIA suit, though it was not formally treated as such by the courts in the ensuing litigation

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See 418 U.S. at 175 n.8, 94 S. Ct. at 2946

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United States v. Richardson, 418 U.S. at 204-05, 94 S. Ct. at 2960 (Stewart, J., joined by Marshall, J., dissenting) (emphasis added)

i4

The present case can also be analyzed in terms of the "nexus test" established by the Supreme Court in *Flast v. Cohen*, 392 U.S. 83, 88 S. Ct. 1942, 20 L. Ed. 2d 947 (1968), and followed by the Court in *United States v. Richardson*, 418 U.S. at 174-75, 94 S. Ct. at 2945-46. The nexus test requires that in order to have standing to raise a generalized grievance as a taxpayer, a plaintiff must show a "nexus between his status and the nature of the allegedly unconstitutional action," *Flast v. Cohen*, 392 U.S. at 106, 88 S. Ct. at 1995; that is, he must show that he is challenging an enactment under the taxing and spending clause of the Constitution, and that he is claiming that the challenged enactment exceeds specific

constitutional limitations on Congress's taxing and spending power. See *United States v. Richardson*, 418 U.S. at 173, 94 S. Ct. at 2944. Plaintiff in *Richardson* did not show the required "nexus":

"Although the status he rests on is that he is a taxpayer, his challenge is not addressed to the taxing and spending power, but to the statutes regulating the CIA, specifically 50 U.S.C. § 403j(b)." *Id.* at 175, 94 S. Ct. at 2945. In the present case, plaintiff presents a grievance as a requester under the FOIA, but this status as a FOIA requester bears no nexus to his constitutional challenge to the statutes regulating the CIA.

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See *Richardson v. Spahr*, 416 F. Supp. 752 (W.D. Pa.), *aff'd mem.*, 547 F.2d 1163 (3d Cir. 1976), *cert. denied*, 434 U.S. 830, 98 S. Ct. 111, 54 L. Ed. 2d 89 (1977)

;**6**

See Petitioner's Brief for Certiorari at 6, *Richardson v. Spahr*, 434 U.S. 830, 98 S. Ct. 111, 54 L. Ed. 2d 89 (1977)

;**7**

See *Halperin v. Colby*, No. 75-0676, slip op. at 4 (D.D.C. 4 June 1976)

;**8**

See Brief for Appellant at 9

;**9**

See Brief for Appellee at 35

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2 M. Farrand, *The Records of the Federal Convention of 1787*, at 618 (rev. ed. 1966)

;**1**

Id.

;**2**

Id. at 619

;**3**

Id.

;**4**

3 M. Farrand, *The Records of the Federal Convention of 1787*, at 311 (rev. ed. 1966)

5

Id

6

Id. at 326

7

Id

8

See id. at 326-27

9

3 J. Elliot, *The Debates in the Several State Conventions on the Adoption of the Federal Constitution* 462 (1836)

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The statements of the Framers quoted above in text mention the "government" as holding discretion to maintain secrecy. Madison mentioned the legislature specifically, but not exclusively. See pp. 154-155 *supra*. That the President shares in this discretion is suggested by one of the Federalist Essays of John Jay, who had gained diplomatic experience in the service of the Continental Congress during the Revolution and of the Confederation afterwards. Commenting on the newly proposed Constitution, he observed:

It seldom happens in the negotiation of treaties of whatever nature, but that perfect secrecy and immediate dispatch are sometimes requisite. There are cases where the most useful intelligence may be obtained, if the persons possessing it can be relieved from apprehension of discovery. Those apprehensions will operate on those persons whether they are actuated by mercenary or friendly motives, and there doubtless are many of both descriptions, who would rely on the secrecy of the president, but who would not confide in that of the senate, and still less in that of a large popular assembly. The convention have done well therefore in so disposing of the power of making treaties, that although the president must in forming them act by the advice and consent of the senate, yet he will be able to manage the business of intelligence in such manner as prudence may suggest. Federalist No. 64 (J. Cooke, ed. 1961) (emphasis in final sentence added).

1

See 3 *Journals of the Continental Congress* 392 (1905)

'2

American Archives, Fifth Series, vol. II, at 818-19 (P. Force, ed. 1851) (statement of Committee members Benjamin Franklin and Robert Morris, concurred in by Richard Henry Lee and William Hooper)

'3

See H. Wriston, *Executive Agents in American Foreign Relations* 3-15 (1929). For example, when the Continental Congress instructed the Committee on 10 May 1776 to "lay their proceedings before Congress," it authorized the Committee to withhold "the names of the persons they have employed or with whom they have corresponded." 4 *Journals of the Continental Congress* 345 (1906)

'4

8 *The Writings of George Washington* 478-79 (J. Fitzpatrick, ed. 1933). See also *Laird v. Tatum*, 408 U.S. 1, 6, 92 S. Ct. 2318, 2322, 33 L. Ed. 2d 154 (1972) ("As Chief Justice John Marshall said of Washington, 'A general must be governed by his intelligence and must regulate his measures by his information. . . .'" (quoting *Tatum v. Laird*, 444 F.2d 947, 952-53 (D.C. Cir. 1971)))

'5

6 U.S. Dep't of State, *Diplomatic Correspondence of the American Revolution* 428 (F. Wharton, ed. 1889) (emphasis added)

'6

See 1 *Annals of Congress* 969-70 (1834)

'7

Act of 1 July 1790, 1 Stat. 128 (1790)

'8

Id. at 129

'9

Act of 9 Feb. 1793, 1 Stat. 299, 300 (1793)

'10

See D. Miller, *Secret Statutes of the United States* 6 (1918) (quoting statute enacted 15 January 1811)

31

See 3 Stat. 471 (1811) (printed immediately following acts approved on 20 April 1818)

32

See, e. g., I. Brant, James Madison, Father of the Constitution, 1787-1800 (1950)

33

Cong. Deb. 295 (1831) (Forsyth later served as Secretary of State under Presidents Jackson and Van Buren)

34

4 J. Richardson, Messages and Papers of the Presidents 328 (1897) (emphasis added)

35

Id. at 434, 435

36

See Nixon v. Sirica, 487 F.2d 700, 778-80 (D.C. Cir. 1973) (Wilkey, J., dissenting)

37

Appellant cites two commentators for the proposition that it is unconstitutional for Congress to allow the CIA to avoid public accounting for its expenditures. See L. Tribe, American Constitutional Law 166 n.15 (1978); Note, The CIA's Secret Funding and the Constitution 84 Yale L.J. 608 (1975). We note, however, that Professor Tribe rests on a bare assertion without discussing the relevant historical evidence, while the student note overlooks much of the evidence discussed above

38

Central Intelligence Agency Act of 1949, Pub. L. No. 81-110, 63 Stat. 208 (1949)

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50 U.S.C. § 403j(b) (1976)

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See 28 U.S.C. § 537 (1976)

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See 42 U.S.C. § 2017(b) (1976)

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See p. 158 supra

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See *Baker v. Carr*, 369 U.S. 186, 211, 217, 82 S. Ct. 691, 706, 710, 7 L. Ed. 2d 663 (1962)

14

418 U.S. at 178 n.11, 94 S. Ct. at 2947 n.11

15

Id

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Id

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See *Harrington v. Bush*, 553 F.2d 190, 194-95 & n.7 (D.C. Cir. 1977)

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2 *Annals of Congress* 302 (1792)

19

An example of current practice is found in the Office of Management and Budget's annually published federal budget. See, e. g., OMB, *The Budget of the United States Government*, Appendix, Fiscal Year 1980 (1979). See also *United States v. State Bridge Comm'n*, 109 F. Supp. 690, 694 (E.D. Mich. 1953) ("Congress is not required to set out with particularity each item in an appropriation as a requisite to validity")

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See pp. 22-23 supra

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