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**U.S. Department of Justice**

**Federal Bureau of Investigation**

January 7, 2009

Subject: SMEAR CAMPAIGN AGAINST THE FBI-  
THE NATION OCTOBER 18, 1958

FOIPA No. 1110933-000

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## Section 552

□(b)(1)

□(b)(2)

☒ (b)(3) Rule 6(e)

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□(b)(4)

□(b)(5)

☒(b)(6)

## Section 552a

□(b)(7)(A)

□(b)(7)(B)

☒(b)(7)(C)

☒(b)(7)(D)

□(b)(7)(E)

□(b)(7)(F)

□(b)(8)

□(b)(9)

□(d)(5)

□(j)(2)

 $\square(k)(1)$ 

□(k)(2)

□(k)(3)

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□(k)(5)

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□(k)(7)

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shown,  
file(s).  
file(s).

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☒ See additional information which follows.

Sincerely yours,



David M. Hardy  
Section Chief  
Record/Information  
Dissemination Section  
Records Management Division

Enclosure

Enclosed is an excised copy of The Smear Campaign Against the FBI - The Nation, October 18, 1958, which is responsive to your Freedom of Information Act request.

## **EXPLANATION OF EXEMPTIONS**

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- (k)(1) information which is currently and properly classified pursuant to an Executive order in the interest of the national defense or foreign policy, for example, information involving intelligence sources or methods;
- (k)(2) investigatory material compiled for law enforcement purposes, other than criminal, which did not result in loss of a right, benefit or privilege under Federal programs, or which would identify a source who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(3) material maintained in connection with providing protective services to the President of the United States or any other individual pursuant to the authority of Title 18, United States Code, Section 3056;
- (k)(4) required by statute to be maintained and used solely as statistical records;
- (k)(5) investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment or for access to classified information, the disclosure of which would reveal the identity of the person who furnished information pursuant to a promise that his/her identity would be held in confidence;

- (k)(6) testing or examination material used to determine individual qualifications for appointment or promotion in Federal Government service the release of which would compromise the testing or examination process;
- (k)(7) material used to determine potential for promotion in the armed services, the disclosure of which would reveal the identity of the person who furnished the material pursuant to a promise that his/her identity would be held in confidence.

FBI/DOJ

*THE SMEAR CAMPAIGN  
AGAINST THE FBI*

*The Nation, October 18, 1958*

*(Not for Dissemination Outside the Bureau)*

*April, 1959*

*Federal Bureau of Investigation  
United States Department of Justice  
John Edgar Hoover, Director*

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## INTRODUCTION

The present smear campaign against the FBI is in its initial stages. A special issue of The Nation magazine dated October 18, 1958, was devoted in its entirety to an article entitled "The FBI" by Fred J. Cook which, upon analysis, furnishes a key to an understanding of the real purpose of the smear attacks and the issues involved.

The FBI has always welcomed constructive criticism, and will continue to do so. But there is a vast difference between constructive criticism and vicious, destructive attacks. Any agency finds that it is part of its lot to bear adverse criticism heaped on it by individual cranks and crackpots. However, in the event of an aggravated and obviously purposeful attack such as that represented in the Cook article, it becomes imperative to expose the motives behind such an attack in their true context. That is the purpose of this monograph.

The analysis presented in this monograph is set out in three parts: (1) the Cook article in the context of the current smear attacks; (2) a comparative study of certain aspects of Cook's article and the communist line; and (3) a detailed study of the charges Cook makes in the light of the facts which refute them.

This monograph will provide Agents with material whereby they may be more fully apprized of the nature and purpose of the smear campaign against the Director and the FBI. It will assist them in being alert to recognizing the smear technique so that pertinent information in this connection can be brought to the attention of the Director immediately. In addition, the material in this monograph will be valuable for use in the development of confidential informants.

## SUMMARY AND CONCLUSIONS

### A. Summary

The Nation magazine, in a special issue dated October 18, 1958, featured an article by Fred J. Cook entitled "The FBI," which is extremely critical of the Bureau. Cook's article comprises both the focal point and the articulate expression of the current smear attacks against the FBI. An analysis of Cook's article clearly reveals that the FBI is only the intermediate target of the smear campaign and that the ultimate target of the smears is no less than the internal security of the United States itself.

Two closely related tactics are employed in this smear activity. They are: (1) to discredit the FBI in its role as the agency entrusted with major responsibilities in safeguarding the internal security of this country, and (2) to force the Bureau's actual withdrawal from the internal security field. The Cook article reflects both phases of the attack. This twofold strategy involves a practical expression of basic communist doctrine which dictates the necessity of attack upon and destruction of all elements within a free society which prevent communist expansion.

As the focal point of the current smear attacks, The Nation article has been hailed by the communist movement at home and abroad. The Communist Party, USA, has ordered its members to purchase, study, and circulate the article. Communist front organizations have exploited the article to their advantage. In December, 1958, Radio Moscow attacked the FBI in a propaganda broadcast designed for international reception, citing Cook's article as the authority for its accusations.

As the articulate expression of the smear campaign, the article is based on four broad, related charges. They are: (1) A spurious Government-inspired menace of "radicalism and revolution" was created during 1919 and 1920. (2) Security investigations are unnecessary, because our democracy survived without them from 1920 to 1940. (3) When ordered to re-enter the security field immediately prior to World War II, the FBI seized this opportunity to deliberately instigate a "grandiose magnification" of the subversive danger in this country. (4) The FBI uses this deliberately manufactured menace of subversion to justify its police-state mentality and methods.

An examination of these four major accusations reveals a slyly woven fabric of lies, factual inaccuracies, half-truths, innuendoes, misrepresentations, and distortions. In the light of truth, the alleged "Government-inspired" menace is revealed as the actual menace of the 1919-1920 period, represented in 1919, for example, by the birth of the Communist Party, USA, as a foreign-inspired revolutionary movement.

The survival of our democracy from 1920 to 1940, when seen within its security perspective, poses a stark illustration of the dangerous foothold which can be gained in a free nation by a militant, unrestrained communist movement. Those decades saw the greatest gains of the American Communist Party.

The charge that the FBI instigated a "grandiose magnification" of the subversive danger in this country crumbles under the combined weight of Cook's own references to the threat of "spies, sabotage and internal subversion" confronting the American people, and the reality of the major security cases, both fascist and communist, which he himself cites.

The last of the four charges constitutes, in effect, a denunciation of the FBI as an alleged police-state organization. This is the allegation toward which Cook's entire article is slanted. The police-state charge is the crux of Cook's argument and grossly insults not only the FBI but the American people themselves.

Some of the author's arguments in support of his theme that the FBI possesses a police-state mentality and uses police-state methods include allegations that: the FBI conducts illegal investigations of political views; uses Gestapo-type tactics such as, secret informants, wire tapping, and illegal searches, seizures, and arrests; compiles secret files; unduly publicizes itself, cloaking itself in a "myth of infallibility"; and dictates to Congress and the courts.

On the strength of Cook's four broad charges, the conclusion is reached that the FBI should be stripped of its jurisdiction in the security field and restricted to investigations of criminal violations. In support of this argument,

Cook alleges that, by not paying enough attention to its responsibilities in the criminal field, the FBI has failed to meet the threat of organized crime.

Cook exposes his own appalling lack of even a rudimentary grasp of the limitations of the FBI's criminal jurisdiction. In referring to FBI jurisdiction in cases in which a person has crossed a state line to avoid prosecution or to avoid giving testimony, the author terms this a "sweeping provision" that would seem to embrace most of the major activities of syndicated crime in the United States.

Cook attempts to befoul existing relationships between the FBI and other law enforcement agencies, charging the FBI with taking credit that rightfully belongs to local authorities, and failing to cooperate with them. In this, as in other allegations, Cook erects a large and orderly system of allegations upon small and insufficient hypotheses, meanwhile studiously omitting facts which, taken in their total context, prove him incorrect in each of his basic charges.

Many of Cook's basic views as presented in this article are seen to parallel the Communist Party line to a remarkable degree. Outstanding instances of this parallel are observed in Cook's references to the Director, to FBI appropriations, to FBI files, to the Jencks decision, and to organized crime.

In addition to deficiencies which tend to belie Cook's professed objectivity, the author is guilty of miscellaneous errors throughout the article.

The real threat posed by this article consists of its concealed but deadly challenge to the internal security of this country. Cook's article represents a manifesto for intensified attacks against the Bureau which can be expected in the future.

## B. Conclusions

1. The article in The Nation is the articulate expression of the current smear campaign against the FBI.

2. It serves to identify the issues on which the current smear efforts are based.
3. Chief among these issues is the fantastic charge that the FBI is a police-state organization.
4. Concealed behind specious attempts to pin the police-state label on the FBI is to be found a deliberate effort to drive the FBI out of the internal security field.
5. The Nation article and other current smears represent, in reality, a concerted attack on the internal security of the country, the FBI being only an intermediate target in the campaign.
6. The strategy of the smear campaign is now transparently revealed. With the FBI discredited and disposed of, communist and other subversive operations would be able to flourish with relative impunity.
7. The article itself is a compilation of lies, factual inaccuracies, half-truths, innuendoes, misrepresentations, and distortions, blended with views which strikingly parallel the Communist Party line.
8. This phase of the smear campaign represents a manifesto for intensified attacks against the Bureau which can be expected in the future.

## I. CURRENT SMEAR ATTACKS ON THE FBI

### A. Nature and Purpose

On December 22, 1958, the powerful voice of Radio Moscow lashed out with one of the most poisonous attacks it has ever made on the FBI. In a foreign propaganda broadcast, a Soviet commentator accused the FBI of using, among other things, blackmail, intimidation, and even murder to achieve what he called "its filthy ends."

Communist attacks of this nature from Moscow are nothing new. This recent one, however, has a special significance. It turned an international spotlight on an article which appeared in an American magazine in the Fall of 1958 and which, since then, has served as a focal point for a major smear attack on the FBI.

The Moscow broadcast was not an isolated or coincidental incident. When it cited as an authoritative source for its accusations an article about the FBI which appeared in The Nation magazine in October, 1958, Moscow obviously was using this means to implement the widespread smear campaign presently in progress in the United States.

#### 1. The Real Objective

The time has come to examine the present smear attacks being made against the FBI in their proper perspective. To remain silent about the current concerted campaign aimed at destroying the reputation of the FBI would be to do an injustice to the American people, not only because of the confidence they have demonstrated in the FBI through the years, but also because the campaign is an attack on the people themselves.

The truth is that the present attack on the FBI is actually an attack on the internal security of this country. The FBI is only an intermediate target in the campaign. It is the target only because it has been entrusted with major responsibilities in connection with safeguarding the internal security of this Nation.



Divested of all their clever subterfuge, noisy ballyhoo, and familiar red herrings, the concerted attacks being made against the FBI today have but one clear-cut, vital objective. This objective is to force the FBI completely out of the field of security investigations. This is the single destructive end in view. This is the real motivating desire behind the varied but related thrusts. This explains why the forces attacking can be readily identified and linked together both through the pattern of their activities in furthering the present smear campaign and through their singleness of purpose.

The Moscow broadcast, for example, featured the theme that the FBI does not belong in the field of security investigations. The Soviet commentator stressed this when he declared that, while the official purpose of the FBI is to fight crime, the actual work of the FBI has been devoted to spying on people.

It is understandable that Moscow wants to drive the FBI out of the field of internal security work. Communist efforts to weaken our internal security and to open this country to subversion are not a recent innovation. Such efforts represent a practical expression of basic communist doctrine. Inherent in the fundamental concepts comprising this doctrine is the firm determination of communists to continually attack and destroy all the elements within a free society which prevent communist expansion.

For years, communists have been hammering away at the theme that the FBI is a vast, secret, political-police agency. This theme has always been accompanied by lies, distortions, and innuendoes designed to make it appear that the FBI uses illegal methods, imposes thought control, and infringes on individual liberties.

## 2. Focal Point: The Nation Article

This explains why the highly biased and distorted article about the FBI, by Fred J. Cook, which appeared in The Nation in a special issue on October 18, 1958, has been so important in the present smear campaign. That article encompassed completely the views which communists have projected for years about the so-called illegal activities of the FBI. In addition, it gave

those views an aura of respectability through the gloss it added by having them presented in a magazine which, on the surface at least, would have no reason for furthering communist objectives.

### 3. The Nation Long Critical of FBI

The Nation, which is published in New York City, was founded in 1865 for the avowed purpose of championing the rights of the newly freed slaves. It has always been a staunch defender of civil liberties. The Nation has specifically denied being communist or procommunist, but on some issues in the past the magazine has been substantially in agreement with the communist line, while on others it has espoused an opposite view.

Over the years, a number of individuals who have been employed, at one time or another, by The Nation in editorial and writing capacities have been identified with the communist movement. Since 1936, The Nation has periodically been highly critical of the FBI and the Director.

### 4. Fred J. Cook

Fred J. Cook has been a newspaperman for a number of years, and has been a staff writer for the New York World Telegram and Sun for at least a dozen years. In addition to his regular employment, he has done free-lancing, particularly for The Nation.

b7D Cook's articles in The Nation include those he wrote in defense of Alger Hiss\* and William Remington\* and one attacking

b3 \*  Hiss  convicted in Federal Court for perjury. Hiss was convicted in 1950 for his denial before the House Committee on Un-American Activities that he had ever been involved in Soviet espionage activities;

In a book on Hiss, written by Cook and published in the spring of 1958, he insinuated that Hiss was a victim of a vast plot involving the Director and others. Cook accused the Director of attempting to throttle free thought in this country and to encourage conformity in a book review he prepared for The Nation in Masters of Deceit.

#### 5. Communist Party, USA

Some idea of the value to communists of the article in The Nation can be gained by observing the scope of communist activity centered about it in this country. After the article in The Nation appeared on the newsstands, for example, the Communist Party, USA, wasted no time in ordering its members to purchase, study, and circulate it. The observation was made that it should be required reading for all communists. The Party line about it was established in The Worker, an east coast communist weekly newspaper, on November 16, 1958, when it was praised for attacking the FBI.

Once the Party line was set, communists throughout the country went into action. Publications which regularly carry the Party line hailed the article in The Nation as "objective" and "penetrating." Communist bookstores made plans to set up distribution of the article. Some conceived the idea of offering "package deals" featuring it.

In some Party clubs, extra copies of the article were made available to club organizers to facilitate distribution of it. In clubs where copies were scarce, available copies were loaned to members with instructions that they be studied and returned promptly for use by others.

#### 6. Communist Front Activity

Communist front organizations began using the article to advantage. The National Committee To Secure Justice for Morton Sobell, for instance, distributed copies and urged recipients to write laudatory letters to the editors of The Nation about the article. Sobell, of course, is now serving a 30-year prison term as a result of his conviction, along with that of Julius and Ethel Rosenberg, for committing espionage on behalf of the Soviet Union.

Another communist front group, the Emergency Civil Liberties Committee, termed the article about the FBI in The Nation a "masterful analysis." It announced that copies of the article were being sold through its headquarters. The Emergency Civil Liberties Committee, it is to be noted, has dedicated itself to achieving the abolishment of the House Committee on Un-American Activities, as well as to what it has termed the necessity of keeping the FBI "within legal bounds."

The interest of the Emergency Civil Liberties Committee in The Nation attack on the FBI could have been predicted. The article in The Nation began its attack by quoting the views expressed by Cyrus Eaton, a 75-year-old multimillionaire, who appeared on a television program on May 4, 1958, and accused the FBI of contributing to a police-state form of government which he implied is developing in this country.

The Emergency Civil Liberties Committee had already demonstrated prior approval of Eaton's views. After his television appearance, for example, this Committee printed and distributed, as a so-called "public service," a leaflet containing excerpts of Eaton's statements. Not to be overlooked is the fact that one of the excerpts it chose to feature included Eaton's observation that the FBI "should confine itself to legitimate police work." Here again is the recurrent theme that the FBI must be driven out of the field of security work.

## 7. The Fund for the Republic

Cyrus Eaton's television appearance was made possible by The Fund for the Republic. This is a tax-exempt organization which sponsors numerous projects purportedly designed to advance public understanding of civil liberties. Its efforts in this regard have included the publication of studies in which the FBI has been labeled a "secret police agency," and in which communism has been dismissed as a movement which has been "exaggerated in the public mind by many forces operating from many motives."

Perhaps it was just coincidence that Cyrus Eaton, in the television appearance sponsored by The Fund for the Republic, so closely paralleled the same views. In attacking the FBI as one of the agencies engaged, as he put it, "in snooping, in informing, in creeping up on people," Eaton also declared that "there are no

communists in America to speak of, except in the minds of those on the payroll of the FBI."

## 8. Cyrus Eaton

### a. Valuable Critic

The value of Cyrus Eaton to those connected with The Nation, with the Emergency Civil Liberties Committee, and with The Fund for the Republic stems from two things. The first, of course, is the point demonstrated in connection with his insistence that the FBI should be confined to what he terms "legitimate police work." But not unimportant is Eaton's status as an individual in our society. In the article in The Nation, for instance, much was made of the fact that Eaton's success as a financier and industrialist gave added weight to his views on the problems arising from international communism.

On the other hand, Eaton's views and activities in this respect seem to have been better characterized in one newspaper editorial which stated, "...we pause to wonder what would have happened to Eaton's business enterprises if he had conducted them with the boyish innocence of his approach to international communism." (Milwaukee Sentinel, September 5, 1958)

### b. Aid to Soviet Propagandists

There is unmistakable evidence of Eaton's growing rapport with Soviet Government officials both in the Soviet Union and in the United States. Eaton's relationship with these officials has been marked by increasingly friendly contacts, personal and otherwise, from 1955 to the present time.

Eaton met Soviet Premier Nikita S. Khrushchev and other top Soviet officials on his visit to Russia in September, 1958. Obviously in recognition of his valuable propaganda services to the Soviet Union, Eaton was given a troika--a team of three horses and a carriage. In return, Eaton promised to send the Soviet Ministry of Agriculture five American pedigreed heifers and a bull.

During the "unofficial" American tour of Soviet Deputy Premier Anastas I. Mikoyan in January, 1959, Mikoyan

stopped off at Eaton's farm outside Cleveland, Ohio, to present the troika officially. On his return to Moscow, Mikoyan declared that "we look upon" Eaton and his wife "as our dearest friends." (The Sunday Star, Washington, D. C., January 25, 1959, p. A - 6)

Eaton is known to have prepared statements expressly at the request of Soviet diplomatic officials in the United States, knowing they were to be used in publications or on broadcasts in the Soviet Union. The prevalence with which they were used during 1958 alone demonstrates their value to communist propagandists who are using Eaton as an important element in their continuous attacks on the foreign policy of the United States.

c. Discussion with Soviet Ambassador

Eaton was in contact with Soviet Ambassador Mikhail A. Menshikov at the Soviet Embassy in Washington, D. C., early in November, 1958, just after Eaton appeared at the National Press Club to speak about his recent trip to the Soviet Union. Eaton told Menshikov that, during his appearance before the National Press Club, he had been asked whether he had an opportunity, during his trip to the Soviet Union, to see the estimated 15- to 20-million prisoners of the Soviet slave labor camps. Eaton said that he did not know to what the question referred. Menshikov replied that it was complete nonsense, adding that he received such questions from time to time during his own public appearances. He stated that they are provocative questions, which he treats accordingly.

Upon hearing Menshikov's explanation, Eaton stated that he had assumed this was the case. He went on, however, to ask Menshikov if there were, in fact, any political prisoners in Siberia. Menshikov assured Eaton that there were not. Eaton then requested Menshikov to send him a letter with some information to refute this charge. Eaton said he was scheduled to speak before a large audience in Kansas City in a few days and wanted to be prepared with the correct answer in the event the question was asked again. In his own words, he stated that he wanted "to be loaded" for the Kansas City speech, as well as for a later one he was scheduled to make in Detroit before several thousand businessmen. Menshikov assured Eaton that he would send the necessary information to him.

d. Instructions to Rockwell Kent

In November, 1958, Rockwell Kent, who had recently returned from a visit to the Soviet Union, intimated that he had received instructions, while in the Soviet Union, to contact Cyrus Eaton upon his return to the United States and to work with Eaton, though not openly. Kent indicated that he had not yet met Eaton to fulfill these instructions, but had corresponded with him and planned to arrange a future meeting.

Rockwell Kent is the former president of the International Workers Order and presently is chairman of the National Council of American-Soviet Friendship, both of which have been designated by the Attorney General of the United States pursuant to Executive Order 10450.

e. Pertinent Questions

Cyrus Eaton's pro-Soviet activities raise some interesting questions in connection with the present smear attacks against the FBI. They reveal a picture of an individual who, for whatever personal reasons may be motivating him, has shown an increasing willingness to serve the interests of the Soviet Union.

The extent of Eaton's gullibility was never more apparent than as shown through his request of Soviet Ambassador Menshikov to explain whether or not there really are political prisoners in Siberia. The fact that Eaton is being exploited by Moscow is shown by Menshikov's agreement to send Eaton necessary information to permit him to be, as he put it, "loaded" with the correct answers in a forthcoming speech about the Soviet Union.

The extent to which he has already been exploited by Moscow becomes a most pertinent question in view of Rockwell Kent's instructions in Russia to work secretly with Eaton. How long then has Eaton been working "secretly" for Moscow?

The possibility that Eaton, in his pro-Soviet activities, may be receiving direction in some form or another from Moscow also raises the question as to whether or not it was coincidence that he took the occasion of a nationwide television interview to convey the idea across the country that the FBI should "confine itself to legitimate police work." The fact that this has become

the central theme for major attacks against the FBI at this time cannot be ignored.

#### 9. Carey McWilliams

The interest of the Emergency Civil Liberties Committee in the article in The Nation attacking the FBI could have been predicted for other reasons. One of the most obvious is the fact that Carey McWilliams, editor of The Nation, was formerly a national officer of the Emergency Civil Liberties Committee. McWilliams has long been publicly identified with the activities of a number of subversive organizations.

#### 10. Elinor Ferry

Some of the links are not as obvious. On November 11, 1958, for example, the FBI was again the subject of a scathing attack. It was made in New York City at an open forum sponsored by the Socialist Workers Party, which has been cited by the Attorney General of the United States pursuant to Executive Order 10450. The denunciation of the FBI followed the line of attack of the article in The Nation, the attack being delivered by Elinor Ferry. Prior to Ferry's appearance, The Nation had carried advertisements calling attention to it, with the added comment that her topic was to be "The FBI: Permanent Political Police."

Again, it seems to be more than just coincidence that Elinor Ferry also is a former official of the Emergency Civil Liberties Committee. The possibilities of coincidence are stretched even more by the fact that Elinor Ferry is the former wife of George G. Kirstein, present publisher of The Nation.

#### 11. The Militant

The familiar theme of the necessity of forcing the FBI out of the security field constituted the basis for an attack from yet another source. In the December 8, 1958, issue of The Militant, weekly publication of the Socialist Workers Party, the first of a new series of articles appeared concerning



the FBI. It was stated that:

*"The FBI's highly publicized 'gang-busting' activity serves as a facade for its political function... The true role of the FBI is to engineer the witch-hunt."*

#### 12. National Guardian

On the same date, the National Guardian, a self-styled "progressive newsweekly" which has been described by the House Committee on Un-American Activities as "a virtual official propaganda arm of Soviet Russia," urged the purchase of the article in The Nation as a means of fostering "public enlightenment" about the FBI.

The appearance of these articles in these separate magazines on the same date appears again to be a coincidence. The fact is, however, that delegates representing both the Socialist Workers Party and the National Guardian had attended a national conference in Cleveland, Ohio, just a week earlier at which Sam Kushner, a national committee member of the Communist Party, USA, called for united action by all socialists against the FBI. Here, too, it is interesting to note that one of the conference sponsors was Elinor Ferry.

#### 13. Socialist Workers Party

One final point should be made to resolve any lingering doubts about whether or not a deliberate and well-organized smear attack is being made against the FBI at this time. In December, 1958, an east coast official of the Socialist Workers Party declared that the hate campaign against the FBI was to be intensified to further develop the theme that it is a "gestapo... ruling this country with the help of fear, intimidation, and terror."

#### B. Meeting the Attack

There is only one way to meet such a broad, concerted, devious attack of this nature: to strip it bare of all the false

ornamentation used to conceal its true purpose. All the lies, distortions, innuendoes, and other diversionary tactics serve merely to shroud the true and highly important issue involved. It is with these issues that we must concern ourselves. When these issues have been resolved in their true light, the full weight of that truth will crush the present campaign just as it has crushed similar past campaigns launched by communists and their fellow travelers. Falsehoods serve the attackers only until the truth arrives.

It is no accident that so much of the present concerted attack revolves about the article which appeared in The Nation. That article is the epitome of the over-all campaign. Adroitly hidden within it is the serious threat which the over-all campaign represents to this country's internal security. For that reason, the charges it makes should be examined in detail.

By meeting these charges head on and exposing vigorously the fallacy and distortion surrounding the issues, the misconceptions which may arise in the public consciousness from the compounding of these false charges will be prevented.

#### 1. Identifying the Issues

There are four broad specious charges upon which this article is based. They are:

1. A spurious Government-inspired menace of "radicalism and revolution" was created during 1919 and 1920.
2. Security investigations are unnecessary, because our democracy survived without them from 1920 to 1940.
3. When ordered to re-enter the security field immediately prior to World War II, the FBI seized this opportunity to deliberately instigate a "grandiose magnification" of the subversive danger in this country.
4. The FBI uses this deliberately manufactured menace of subversion to justify its police-state mentality and methods.

Based on these charges, the conclusion is reached that the FBI should be stripped of its jurisdiction in the security field and restricted to investigations of criminal violations so that it can redeem its failure, thus far, to meet the threat of organized crime. Notice again the emphasis on forcing the FBI out of the security field.

These then are the accusations against the FBI. Let us examine them and see how they stand up in the light of truth.

## 2. A Spurious Menace

The first charge is: A spurious Government-inspired menace of "radicalism and revolution" was created during 1919 and 1920.

The facts prove otherwise. If there is any period which can clearly be fixed as the beginning of the foreign-directed, foreign-financed, highly organized conspiracy dedicated to the revolutionary overthrow of our Government, it can only be the period 1919-1920. It was in 1919 that the Communist Party, USA, was organized. Its formation was a direct result of the Bolshevik Revolution of 1917 through which, in the Soviet Union, the first communist government seized power. From 1919 to the present time, the Communist Party, USA, has acted, in effect, as a completely subservient agent of this foreign power.

It is true that a menace was created in that era. But this menace was neither spurious nor Government-inspired. The menace was--and still is--very real. The menace is an international conspiracy of over 33,000,000 claimed members which has since engulfed one quarter of the land area and enslaved one third of the population of the entire world. The existence of this communist empire, dominating the lives of some 900,000,000 people and supported by communist parties in more than 70 nations throughout the Free World, including our own, is a stark fact which the article in The Nation deliberately ignores.

It is this reality which, in 1949, prompted William Z. Foster, Chairman Emeritus of the Communist Party, USA,

and in 1957, Nikita S. Khrushchev, to prophesy confidently that the grandchildren of our present generation would live in a communist America!

### 3. Security Investigations Unnecessary

The second broad charge is: Security investigations are unnecessary because our democracy survived without them from 1920 to 1940.

This charge is patently false. It was precisely during this 20-year period that the Communist Party, USA, largely unhampered by any investigation of its activities, registered its greatest gains. In 1920, Party membership was 8,500. By 1939, it had grown to 70,000. The Party freely and openly succeeded in maneuvering itself into the mainstreams of American life. Freed of Government restraint, the Party cloaked itself with an aura of respectability and masqueraded as a legitimate political party. Communism became, in its own words, "Twentieth Century Americanism," and its members successfully pictured themselves as the heirs to the traditions of our founding fathers.

Party members infiltrated into the most sensitive agencies of our Government. Prominent educators, writers, artists, entertainers, clergymen, lawyers, and others who greatly affect public opinion were deluded not only into supporting communist causes but also into stifling anticommunist views. Communist influence was indirectly exercised through the myriad interlocking front groups organized and covertly manipulated by the Party to exploit popular issues of the day. By 1939, it had become almost fashionable to support--financially and otherwise--any cause espoused by the Party.

Perhaps the most striking example of communist success during this period is illustrated by the American labor movement. Through its infiltration of the Congress of Industrial Organizations (CIO), during that organization's formative years in the 1930's, the Party laid the groundwork for its eventual control of eleven unions, most of them in our basic industries. When expelled in 1949 and 1950 by the CIO, these communist-dominated unions had a total membership in excess of 700,000.

Yes--our country survived the period from 1920 to 1940 without security investigations. It also survived this same period without the scientific and medical marvel--antibiotics. Unhampered by antibiotics, disease claimed countless thousands of lives. Unrestricted by security investigations, the Communist Party successfully transformed the 1930's into what has been described as "The Red Decade." Our country survived this period, but, in retrospect, it is obvious that the price was too high.

#### 4. Magnification of the Menace

The third broad charge is: When ordered to re-enter the security field immediately prior to World War II, the FBI seized this opportunity to deliberately instigate a "grandiose magnification" of the subversive danger in this country.

~~This charge is utterly ridiculous. As already pointed out, while communist influence was growing during the 1920's and 1930's, there had been a parallel growth in the strength of the American fascist movement. By the late 1930's, the German-American Bund was openly conducting military drills and holding meetings at which the swastika was prominently displayed.~~

As early as 1936, President Franklin D. Roosevelt became apprehensive over the lack of specific information regarding communist and fascist activities. He instructed the FBI to conduct discreet and confidential investigations of these activities for intelligence purposes only. President Roosevelt's concern over the threats of communism and fascism was reflected in a Presidential Directive of September 6, 1939, instructing the FBI to take charge of investigations in matters relating to espionage, sabotage, and violations of neutrality regulations. Continuing Presidential concern was demonstrated by the issuance of subsequent directives by President Roosevelt, by President Harry S. Truman, and by President Dwight D. Eisenhower.

Concomitant with the domestic upsurge of communist and fascist activities during the 1930's, war clouds were threatening. The combination of these developments raised the immediate probability of attempts at espionage and sabotage. The fact that Presidential concern was not misplaced is nowhere more strikingly shown than in the article in The Nation itself, which states:

"...A swift succession of seemingly never-ending crises confronted the American public: World War II, with its global fighting, its bewildering shifts of allegiance and allies; the Cold War, in which there was no war and yet no peace, in which the ally of yesterday was the potential enemy of today and tomorrow; Korea, a futility in battle, a war that could not be won and yet must not be completely lost; and through it all, the threat of spies, sabotage and internal subversion."  
(The Nation, October 18, 1958, p. 264)

Yet, in spite of its own summary of these momentous developments since 1940, the article accuses the FBI of conducting an extensive publicity campaign, based on the uncritical acceptance of the reports of informants, which foments hysteria over a conjured-up menace of subversion where none actually exists. In the light of recent history, this charge can only be termed utterly ridiculous.

#### 5. Police-State Organization

The fourth broad charge is: The FBI uses this deliberately manufactured menace of subversion to justify its police-state mentality and methods.

This charge is not only false--it is an insult to the American people. In brief, the article argues that the FBI is motivated by a police-state mentality which goes so far as to brand all critics as enemies. By exploiting its security jurisdiction and by utilizing Gestapo-type tactics, the FBI has developed into a national, political-police force. In this self-appointed role, it indiscriminately compiles dossiers of "raw," unevaluated material based on its illegal investigation of political views. The general acceptance of the sacrosanct nature of these files has rendered them exempt from the normally accepted criteria for testing the validity and reliability of the information they contain.

The article claims that this mass of rumor, gossip, and hearsay is a powerful lever for pressure and persuasion. Moreover,

t charges, information is "leaked" to Congressional investigators whose views on subversion reinforce those of the FBI. It maintains that through a cleverly contrived combination of press agency and a protective wall of secrecy, the FBI has rendered itself immune to criticism and inquiry. The article then charges that, from this practically unassailable position of power which enables it to dictate to the courts and to Congress, the FBI restricts individual liberties and interferes with the proper administration of justice.

In a democracy, any of these individual charges against a law enforcement agency is cause for alarm. Their total impact constitutes an unqualified denunciation. Any agency which is so condemned cannot, under our Government of laws, permit so sweeping an indictment to go unchallenged. Our citizens are entitled to the facts so they can determine for themselves whether or not such a broad denunciation is justified.

These charges, since they are so serious, require an answer in some detail. We have already disposed of the charges that the security menace was Government-inspired and that the FBI has exploited its jurisdiction in the security field for its own purposes. Let us now consider the charges which make up the allegation that the FBI is dominated by a police-state mentality and uses police-state methods.

The article introduces its "appraisal" of the FBI by posing this "loaded" question: "Is there a danger in a highly concentrated national police power?" From this question, the article proceeds through a tortuous series of unrelated incidents, unwarranted assumptions, and sly innuendoes to the conclusion that the FBI actually is a national political police. This point deserves immediate consideration.

## 6. Political Influence

The FBI was conceived and established as an investigative arm of the Department of Justice. Its record, since 1924, when J. Edgar Hoover was appointed Director, stands for faithful and consistent adherence to that role. Mr. Hoover accepted the appointment as Director only upon the express

condition that the organization would be completely divorced from political influence. The Director has served under administrations of both major political parties, and this policy has remained unaffected.

Politics is not the province of the FBI. It must never become its area of operations. A "no politics" rule permeates the FBI, because it must remain an impartial, objective investigative agency. FBI employees are thoroughly investigated, carefully chosen, specially trained, and continually supervised with scrupulous regard for the principle that politics must not affect or influence their work.

### 7. Gestapo Tactics

The article specifically accuses the FBI of using Gestapo-type tactics--maintaining secret dossiers on everyone of importance, using secret informers, and employing illegal methods. Let us now consider these individual charges.

### 8. Files

No investigative agency, including the FBI, could operate without files. They are basic working tools. The FBI's investigative work embraces both intelligence and evidentiary functions. At times, the information collected overlaps. In searching for facts, FBI Agents will also encounter hearsay, suspicions, rumors, and gossip. From this mass of information, they must work to the original sources. The truth or falsity of the information gathered is ultimately tested in a court of law, or evaluated in an administrative proceeding. This distinction is important, because the information developed by the FBI is reported with no evaluations, recommendations, or conclusions.

### 9. Secrecy of Files

FBI files are not open to public view because the Attorney General, under the direction of the President, has so instructed. This is no new concept. It is a fundamental principle which has governed many functions of the executive



department--such as affairs of state--since the founding of our Republic. Our founding fathers provided for the broad powers needed by the executive branch in carrying out its administrative duties, but, at the same time, made that branch accountable to the people for the proper exercise of those powers.

From a practical standpoint, the operations of many Government agencies, including the FBI, cannot be conducted behind walls of glass. To throw open the "raw" files to indiscriminate public scrutiny would jeopardize the lives, welfare, and reputations of many innocent persons.

In the hands of an inexperienced person who is unfamiliar with its purpose, an FBI file could be a dangerous instrument of injustice. The working papers of an investigator may incorporate allegations, suspicions, rumors, and hearsay from uninformed and sometimes even malicious sources. These working papers are comparable to a newspaper reporter's notes before the unprintable material has been culled from the printable. A specific report, for example, may contain a serious allegation, the truth or falsity of which may not emerge until several reports have been studied and additional investigation made. Disclosure of particular or selected information could well constitute a gross injustice to an innocent individual whom additional investigation frequently exonerates.

Another important point is that many sources furnish data to the FBI only because they know that their identities will be held inviolate. Without this protection, many of them would be understandably reluctant to cooperate.

The FBI cannot effectively fulfill its responsibilities to the American people unless many vital phases of its work are held inviolate. It is for this reason that the President and the Attorney General have invoked strict regulations defining the confidential nature of FBI files. Congress has honored refusals of the executive branch to disclose the contents of FBI files. The courts have affirmed the legality of official regulations which prohibit any unauthorized disclosure of information in FBI files.

## **10. Unofficial Disclosure of Data**

*While all employees of the Department of Justice, including FBI personnel, are prohibited from disclosing the contents of FBI reports without the approval of the Attorney General, this restriction is not binding on the personnel of other Federal agencies to which FBI reports are disseminated. Practically speaking, even though dissemination is limited to those authorized agencies having an official interest in the information, the FBI loses all physical control of those reports which are disseminated to other Federal agencies.*

*The article in The Nation charges that the contents of FBI files have been unofficially disclosed to favored members of Congress and to congressional investigators when such disclosures serve the purpose of the FBI. As examples, it cites Senators Joseph R. McCarthy, Karl E. Mundt, and Pat McCarran and a former committee counsel, Roy M. Cohn. It neglects to point out that the late Senator McCarran, in his official position as chairman of the Judiciary Committee, had access through the Department of Justice to information from FBI reports prepared on appointees to the positions of United States Attorney and Federal Judge. Furthermore, it ignored the fact that Senators Mundt and McCarthy made categorical denials that the FBI had ever furnished them with information from its files. The article does note that Cohn denied it, but omits, significantly, the fact that he made that denial under oath.*

*A number of orders and directives of the executive branch of the Federal Government clearly define the confidential nature of FBI files which are officially disseminated to other agencies. These orders and directives specifically prohibit the disclosure of the contents of these reports to unauthorized sources. Breaches of this confidence can be, and are, prosecuted under any one of a number of Federal laws.*

*In 1956, for example, a former military officer made a Photostat of an FBI report which had been officially disseminated to the appropriate branch of the Armed Forces with a classification of "Secret." After deleting those portions of the report which identified it as having been prepared by the FBI, he made the Photostat available to a staff member of a committee*

of the House of Representatives. This former officer was, of course, prosecuted for the unlawful conversion of a Government document. Nevertheless, the case illustrates convincingly the possibility of "leaks" when the FBI loses physical control of the information in its files.

Under our democratic form of Government, FBI files are confidential because, in the final analysis, the American people desire that they be maintained in confidence. Without this protection of its records, the FBI could not meet the standards of public service which the American people demand of it. The FBI could not effectively meet the threats of crime and subversion. The FBI complies strictly with the regulations prohibiting unauthorized disclosure of information in its files to insure that no information is "leaked" and to eliminate the possibility that this information is ever used as a lever of pressure and persuasion.

#### 11. Accountability to the People

In our conception of democracy, one of the fundamental rights of the people is their right to as much information as possible about their Government. This right guarantees that every elected and appointed public official shall be a public servant in fact, as well as in name. While, as already indicated, many functions of the FBI must be conducted beyond the scope of public scrutiny, the people are still entitled to a general accounting of its operations and accomplishments.

An over-all accounting is made by the FBI to the President, through the Attorney General, and to the Congress. A regular accounting is made to the courts each time a case investigated by the FBI is tried. A day-by-day informal accounting is made in the course of FBI Agents' relations with the public in carrying out their assigned investigative responsibilities.

The FBI is guided by the principle that the people are entitled to the fullest possible disclosure of its operations, consistent with the national security and the public interest. In determining whether or not information should be made public,

the criterion is not how much can be withheld, but, rather, how much must, necessarily, be withheld. When factors which require that information be held confidential are no longer applicable, this information is promptly made public.

One of the bulwarks of American freedom is our free press. Precisely because our press is free, it serves as another important means of informing the people about their Government. The FBI, in carrying out its duty to furnish the people with as much information as possible, follows a consistent policy of providing to the press and other media of news dissemination factual information about FBI operations.

For example, when an arrest is made, the FBI announces the fact and discloses as much information as possible, consistent with the defendant's right not to have his case prejudiced before trial. Periodically, the FBI issues reports on crime conditions and crime statistics. These data are used, for instance, by many communities to assess local crime conditions and to work out corrective measures. From time to time, the FBI releases public statements on the problems posed by criminal and subversive activities. Information from the FBI's annual report to Congress is released to the public. All of these activities illustrate a positive recognition of the right of the people to as much information as possible regarding the activities of the FBI.

## 12. Press-Agency and Infallibility

The fact is The Nation article criticizes the FBI for excessive disclosures of its investigative techniques and for engaging in "press-agency." Yet, paradoxically, the article accuses the FBI of excessive secrecy. This is a transparent attempt to prove that the FBI magnifies its accomplishments by clever press releases, while covering its shortcomings with a mantle of secrecy in order to create a so-called "myth of infallibility."

The FBI has never made any claim to infallibility. The Director has publicly stated on a number of occasions that the FBI is a human organization, working in a field where the rights of the individual are paramount, where human temperaments are

sensitive, and where the possibility of error is high. Just as any other organization of human beings, the FBI can make mistakes. When these occur, they are invariably brought quickly to the attention of Bureau personnel. In every such case, full inquiry is made into the facts to prevent recurrences.

Since the FBI's work is under the constant scrutiny of the President, Congress, the courts, the media of news dissemination, and an alert, informed citizenry, no amount of secrecy on the one hand, or so-called "press agency" on the other, can effectively conceal the truth.

### 13. Informants and Techniques

The article is highly critical of the FBI for its use of the "secret informer system" and wire taps. In the investigation of criminal offenses and subversive activities, adequate intelligence coverage is essential. The most effective means for penetrating the veil of secrecy behind which criminal and subversive elements cloak their activities are confidential informants and confidential investigative techniques.

The use by the FBI of the services of confidential informants, both in the criminal underworld and within subversive organizations, is no departure from good law enforcement techniques. For centuries, informants have been a necessary means of gaining information regarding illegal activities. Confidential informants are the eyes and ears of law enforcement within the ranks of lawbreakers.

Confidential investigative techniques are also necessary. It is no secret that the FBI uses wire taps and has used them with official approval for approximately 20 years. The FBI utilizes wire taps only in those instances in which the life of an individual or the security of the Nation itself is endangered. In every such case, wire taps are installed only with the written approval of the Attorney General.

As is well known, wire-tap evidence and evidence obtained as a result of wire tapping are inadmissible in Federal Courts. For this reason, there must be powerful factors underlying any decision to employ such a confidential technique.

Where a citizen's life has been placed in jeopardy, as in a kidnaping case, or where the life of the country itself is endangered through espionage, sabotage, or subversive activity, the facts are furnished to the Attorney General to enable him to decide whether or not a wire tap should be installed.

The FBI makes no apologies for using confidential informants and such confidential techniques as wire tapping under the conditions outlined. The FBI uses them in order to discharge effectively its responsibilities to the American people.

#### 14. Arrests, Searches, and Seizures

~~The Gestapo-type tactics which the article in The Nation claims are used by the FBI include illegal arrests, searches, and seizures. Since the case of Judith Coplon allegedly involved all of these procedures and was featured so prominently in the article in support of its charges, it is appropriate to review briefly the pertinent details of the Coplon case to clarify the actual facts.~~

Early in 1949, Judith Coplon, an employee of the Department of Justice, was observed meeting clandestinely with Valentine Gubitchev, a Soviet national employed by the United Nations Secretariat. On the instructions of the Attorney General, she was arrested in New York on March 4, 1949, while in contact with Gubitchev and after each had taken extensive evasive measures to avoid FBI surveillance. During the course of the search of Coplon incidental to her arrest, extracts of FBI reports and other documents, clearly intended for transmittal to Gubitchev, were found in her purse.

The article charges that the FBI illegally arrested Coplon, because it "hadn't bothered" to secure a warrant. The facts are these. The Department of Justice had instructed that any meeting between Coplon and Gubitchev on March 4, 1949, was to be covered by the FBI. When advised of the extensive measures they were taking to avoid FBI surveillance, the Department issued instructions that they were to be arrested even though no warrant had been obtained.

Four Federal courts subsequently had the question of the legality of Coplon's arrest squarely before them. Two Federal trial judges, one in Washington and the other in New York, upheld the arrest as valid. Reviewing Coplon's New York conviction, the United States Court of Appeals for the Second Circuit on December 5, 1950, held the arrest invalid. In the face of this decision, the United States Court of Appeals for the District of Columbia reviewed Coplon's Washington conviction, and on the same facts of arrest, held that it was legal.

At the time of Coplon's arrest on March 4, 1949, Title 18, United States Code, Section 3052, provided that FBI Agents could make arrests without a warrant for felonies where Agents had reasonable grounds to believe that the person was guilty of a felony and there was a likelihood of escape before a warrant could be obtained. ~~The one court which held the arrest invalid--~~ the Court of Appeals for the Second Circuit--did so on an interpretation of the statute. It found that there was ample reason to suppose that there was a criminal conspiracy in progress before the eyes of the Agents, but it held that likelihood of escape was also a specific condition of the statute.

The Court of Appeals for the Second Circuit, which held the arrest invalid, noted in its opinion that this interpretation actually gave an FBI Agent less power of arrest, under some circumstances, than an ordinary citizen.

The search of Coplon and the seizure of incriminating documents in her possession were made incidental to her arrest. Therefore, the legality of her search and seizure depended directly upon the validity of her arrest. In the four Federal courts where this question arose, only one held that the search and seizure were invalid. It could not have found otherwise, since it had already held the arrest invalid upon its interpretation of a statute. In the light of all these facts, it is evident that Coplon's arrest and the subsequent search and seizure on March 4, 1949, were conducted in strict accordance with the law as it existed at that time.

The article concludes its discussion of the Coplon case with a comment which typifies the orientation of the

author's outlook. It claims that "Congress later decided that the FBI shouldn't be bothered with such legal technicalities as warrants in espionage cases, passing legislation specifically exempting them from the normal statutory procedures."  
(The Nation, op. cit., p. 276)

What actually occurred is this. As previously stated, the Court of Appeals for the Second Circuit, in its opinion on the Coplon case, noted that under some circumstances, FBI Agents had less power of arrest than an ordinary citizen. The action of Congress in January, 1951, in broadening the arrest powers of FBI Agents, was designed to correct the restrictive interpretation which this court had placed upon the authority of FBI Agents to make arrests without a warrant. Congress had found that United States Marshals and their deputies had broader powers of arrest than FBI Agents, and it specifically stated that the amendment was being recommended to give FBI Agents the same powers of arrest.

All of these events surrounding the Coplon case illustrate one important point. Under our form of Government, the law is a living and growing thing. It is not static; it changes, develops, expands, and contracts through congressional action and through judicial interpretation.

#### 15. Constitutional Safeguards

All of these charges of Gestapo-type tactics were designed to raise the specter of a national police force which is so powerful that it can dictate to Congress and the courts. It was a tyrannical phantom which the article in The Nation attempted to conjure up. Under our constitutional concept of the separation of powers, it is impossible for any individual or organization to achieve the formidable status inherent in these unfounded charges.

The primary purpose of the division of powers among the executive, legislative, and judicial branches of the Government is to preclude the accumulation of the fundamental powers of Government in the hands of a single person or group. In this manner, our founding fathers insured that the people would be protected from arbitrary, uncontrolled, oppressive acts by those who hold political power. As an additional



safeguard, they established a system of checks and balances by which the three branches through their mutual relationships would, themselves, be the means of keeping one another in their proper places.

While the Constitution provides for the separation of powers, it also presupposes the mutual participation of the branches in conducting the affairs of government. For our Government to operate efficiently, each branch must understand the functions, duties, responsibilities, and problems of the others. It is elementary that Congress, for example, must be informed of the facts in those areas where it contemplates legislation, in order to legislate wisely and effectively. In the same manner, the courts, in properly discharging their judicial functions, cannot operate in a vacuum of academic law, out of touch with the practical realities their decisions affect. From the standpoint of the FBI, it is clearly the duty of the legislature and the judiciary to spell out carefully the authority and procedures the FBI must follow in properly enforcing the law.

#### 16. Dictating to the Courts

The Director of the FBI has, of course, the responsibility of knowing the problems the Bureau faces in the proper performance of its functions. Above that, however, he has the duty to inform the people and other branches of the Government about these problems. Yet, for performing that duty before the House Subcommittee on Appropriations in January, 1958, the article in The Nation accuses the Director of dictating to the courts. In that testimony, he felt compelled to call attention to the fact that crime and subversion had developed into critical challenges because of the mounting success of criminal and subversive elements in thwarting justice through loopholes, technicalities, and delays. In fact, Mr. Hoover, in outlining his views on this problem, cited similar views which had been expressed by three prominent jurists.

The absurdity of the charge that the FBI dictates to the courts is apparent in the very quotation set forth in the article to support the allegation. Referring to the Director, the article claims:

"...he stressed that he had 'the utmost respect for the independence of the courts' and insisted that the 'judiciary is not, and never must become, a mere rubber stamp for the other branches of government.' Then, all the appropriate sentiments uttered, he laid down the law for the judiciary on its clear duty in these words: 'But the courts themselves must eventually come to grips in a realistic manner with facts and join all forces for good in protecting society.'" (The Nation, op. cit., p. 222)

Only by deliberate distortion can these observations be interpreted as an attempt by the FBI to dictate to the judiciary.

#### 17. Dictating to Congress

A closely allied charge is that the FBI curbed the Supreme Court by dictating to Congress. In attempting to justify this claim, the article points to the Supreme Court decision in the Jencks case and to a so-called chronology of subsequent events which precipitated congressional action.

In brief, Clinton Jencks, a labor union official, had been convicted on January 21, 1954, for falsely filing a non-communist affidavit in violation of the Taft-Hartley Law. One of the grounds on which Jencks appealed was that the trial judge had refused to make available to the defense, for cross-examination purposes, written reports of FBI informants who had testified against him. On June 3, 1957, the United States Supreme Court reversed his conviction, ruling, on this point, that Jencks was entitled to inspect the informants' reports relating to their testimony at his trial.

Specifically, the article charges that the Director was "chiefly instrumental in kicking up a public storm" against the decision of the Supreme Court, and that his activities were "deliberate maneuvers...to force Congressional action to curb the Court." The article then reviewed a "brief chronology of events" following that Jencks case. The first of these was a June 28, 1957, item in The New York Times which reported, from

an undisclosed source, that Mr. Hoover had passed the word that the FBI would drop out of some espionage and criminal cases to protect FBI informants. Referred to next was a portion of a report of July 28, 1957, to the Attorney General in which the Director stressed the necessity of protecting the identities of FBI informants. This was followed by the allegation that in Mr. Hoover's letter of August 10, 1957, to Joseph W. Martin, minority leader of the House of Representatives, he demanded legislation to protect the FBI files from disclosure. Finally, the Director's address to the American Legion Convention in Atlantic City in September, 1957, was characterized as capping all of this alleged maneuvering on his part. After a recitation of this chronology, the article suggests that the "sequence tells its own story."

The full facts, however, tell a different story. The Jencks decision was handed down on June 3, 1957. In a strong dissenting opinion, Associate Justice Tom C. Clark criticized it. His dissent was particularly significant for two reasons. First, as a former Attorney General, he was acquainted intimately with the practical effects which could result from the application of the decision. Also, realizing the problems which the decision could create, Justice Clark warned that congressional action to change it might be necessary. His specific words were:

"Unless the Congress changes the rule announced by the Court today, those intelligence agencies of our Government engaged in law enforcement may as well close up shop for the Court has opened their files to the criminal and thus afforded him a Roman holiday for rummaging through confidential information as well as vital national secrets...."

(Supreme Court of the United States, No. 23, October Term, 1956, June 3, 1957)

On June 4, 1957, one day following the Jencks decision, several members of the Houses of Congress added that legislation was necessary to meet this "serious problem," and a proposed bill to that effect was introduced that day in the House of Representatives. On June 24, 1957, another bill was introduced in the Senate, and two similar bills were introduced in the House of Representatives. The Senate bill eventually became the Jencks Law.

The announcement of the Jencks decision on June 3, 1957, occasioned widespread press coverage and editorial comment. From the day of the decision until the Jencks bill was signed into law on September 2, 1957, more than 100 newspapers throughout the country carried editorials critical of the decision. These newspapers represented a cross section of public opinion and many of them urged Congress to enact remedial legislation.

Three days after the Jencks decision was announced, Harry J. Anslinger, Commissioner of the Bureau of Narcotics, described it as a "fatal body blow" to the prosecution of narcotics peddlers.

On June 28, 1957, Attorney General Herbert Brownell, Jr., accompanied by other officials of the Department of Justice, testified before a Subcommittee of the Senate Committee on the Judiciary. The Attorney General cited several instances in which Federal district courts throughout the country had demonstrated wide disparity in their interpretation and application of the Jencks decision. Some of them interpreted the decision by holding that the entire FBI investigative file had to be made available to the defense. He pointed out that the Government had been unable to proceed in some prosecutions.

Speaking for the Department of Justice, Attorney General Brownell stressed the acceptance of the principle of the Jencks decision. However, he cited the immediate need for legislation to clarify the practical procedures to be followed in applying the principle of the decision. "Otherwise," he cautioned, "serious harm will be done to Federal law enforcement."

In summary, then, it can be seen that the necessity of congressional action was inherent in the decision itself through Justice Clark's observations in his strong dissent. Remedial action was immediately proposed in Congress. Finally, and most important, the wide variance in the application of the Jencks decision by lower courts was the practical reality which revealed the compelling necessity for clarifying legislation.

The Director, of necessity, had become concerned over the impact of some lower court applications of the Jencks decision on FBI investigations, and expressed this concern in his report to the Attorney General on July 28, 1957. This, it will be noted,

was a full month after the Attorney General made known to Congress the position of the Department of Justice that it accepted the principle of the Jencks decision, but recommended legislation which would clarify its practical application.

In Mr. Hoover's subsequent letter to Representative Martin on August 10, 1957, he called attention to the need for the legislation which the Attorney General had recommended and which had already been approved by the House Committee on the Judiciary. The Director specifically pointed out in his letter the handicaps some applications of the Jencks decision had imposed on every Federal investigative agency. By no stretch of the imagination can this letter be construed as an effort to dictate to Congress.

Were this not such a serious matter, the final example of the Director's alleged dictation to Congress on the Jencks decision would be ludicrous. The instance cited was Mr. Hoover's speech before the American Legion Convention in Atlantic City. That speech was delivered on September 19, 1957, exactly 17 days after the Jencks bill was signed into law!

#### 18. Police-State Mentality

Fundamental to the entire portrayal by the article in The Nation is the thesis that the FBI is dominated by a police-state mentality. The article, significantly, is weighted heavily on the period immediately following World War I. Considerable effort is expended to emphasize that the Director represents the link between the old, controversial Bureau of Investigation and the present-day FBI. The implication, of course, is that the FBI today, despite outward appearances of improvement, is still dominated by the same mentality which allegedly characterized the Bureau of Investigation. This is the major reason for the author's bitter personal attacks against Mr. Hoover.

By contrasting the old Bureau of Investigation with the present FBI, the author has fallen into a trap of his own making. Because he portrays the old Bureau of Investigation in the worst possible light, he accents the difference between it and the FBI and, in so doing, unwittingly spells out the record on which the FBI of today confidently stands.

It would be impossible for a police-state mentality to dominate the FBI. This is so, because the FBI can never be other than what the American people want it to be. The FBI is, as has been previously shown, subject to the will of the people through the traditional safeguards established in the Constitution. It is this responsibility to the people which distinguishes our concept of law enforcement from that of all totalitarian regimes. It is vital that we remain ever cognizant of this distinction, for those who would destroy this priceless heritage take great pains to blur this distinction.

#### 19. National Police Force

In the light of these facts, let us return now to the "loaded" question posed by the article in The Nation, "Is there a danger in a highly concentrated police power?" In any free society, there can be no disagreement over the answer. Obviously, there is grave danger. However, there is no danger that the FBI is or could become the national police force which the question implies it actually is. Over the years, the Director has consistently opposed every attempt to make the FBI a national police force, and he has reiterated his intention to fight vigorously all proposals which would transform the FBI, or any other investigative agency, into a national police power.

With the four component charges reduced to absurdity, it logically follows that the conclusion drawn by the article is false. The conclusion is that the FBI should be stripped of its jurisdiction in the security field and should be restricted to investigations of ordinary criminal violations.

#### 20. Organized Crime

As additional support for this conclusion, the article charges the FBI with having failed dismally to meet the threat of organized crime. It is particularly interesting to note that the author is described in the introduction to the article as "one of the country's top reporters and investigators in the field of crime." This tribute to Cook is most revealing because his article, in addition to its other deficiencies, discloses the author's appalling lack of even a fundamental knowledge of the limits of the FBI's criminal jurisdiction.

The article states, for example, that while the FBI has been very successful in combating the so-called "stumble-bums" of crime, it has failed to curb the "dark emperors of the underworld." It pictures the "Syndicate" as having operated for years on a nationwide scale in open defiance of the FBI, despite the fact that, in the 1930's, the FBI was given the jurisdiction to curb major criminal activities of an interstate nature.

#### 21. Limited Jurisdiction

The plain fact--and one which every cub reporter knows--is that most of what the article describes as the "Syndicate's maneuvers" do not fall within the investigative jurisdiction of the FBI. This was most lucidly explained by Attorney General William P. Rogers in an address to the 52nd Annual Meeting of the National Association of Attorneys General at Chicago on June 11, 1958. On that occasion, the Attorney General pointed out that less than ten per cent of all crimes are violations of Federal laws. Of that ten per cent, those criminal activities most favored by the so-called "Syndicate" are within the jurisdiction of Federal law enforcement agencies other than the FBI.

#### 22. Fugitive Felon Act

The article specifically cites the jurisdiction given the FBI in cases in which a person crosses a state line to avoid prosecution or to avoid giving testimony. It terms this a "sweeping provision" that would seem to cover a multitude of cases and would seem to embrace most of the major activities of the so-called "Syndicate."

Here again, the author of the article demonstrates his ignorance of the provisions of the Fugitive Felon Act. This statute is not, as the author claims, a "sweeping provision" which would enable the FBI to conduct investigations in a "multitude of cases." On the contrary, the application of this statute is strictly limited to a few specific crimes which are clearly delineated within the statute itself.

More important is the fact that all of these crimes, such as burglary, robbery, mayhem, rape, and murder, are ordinarily of a local nature. Should the FBI attempt to use this statute as a basis for conducting investigations to the degree suggested in the article, it would be guilty of the very excesses the article charges and would actually demonstrate a police-state mentality.

The article contains many other examples of the author's lack of knowledge of the law and FBI operations. For instance, in referring to gangland killings by the "Syndicate," the author claims that it is obvious the killers are imported, and he declares that their interstate travel provides the basis for what he calls the "vigorous entry of the FBI into the difficult field of big-time criminal prosecutions."

Even those who are not "top crime reporters" are aware that murder, in and of itself, is not an offense within the jurisdiction of the FBI. No matter how flagrant the murder or how aggravated the circumstances, the FBI can move to locate the murderer only after local authorities (1) identify the killer, (2) obtain a warrant for his arrest, (3) present facts to show that the murderer has fled interstate, and (4) agree to extradite and prosecute the murderer upon his apprehension by the FBI.

If the FBI followed the procedures Cook advocates in regard to the Fugitive Felon Act, local law enforcement would be completely stifled. Crime is, as the Director has stressed time and again, basically a local problem, and the FBI can step in only when it has jurisdiction.

### 23. Police Cooperation

The article in The Nation, in addition to its other aims, was deliberately designed to becloud the relationships which exist between the FBI and other law enforcement agencies. The author declares, for example, that the FBI operates with what he terms a "well-established principle" not to take local police into its confidence unless they have information which it has not. In the picture he paints, the FBI is shown not only as an agency which will not cooperate with local authorities, but also as one which actually takes credit that rightfully belongs to local authorities.



*The FBI admittedly will not cooperate with any law enforcement agency where there is evidence of graft, dishonesty, or known connections with the underworld. Fortunately, such instances are most limited.*

#### 24. Assistance in Local Bombings

*The role of the FBI in regard to the recent wave of violent bombings which has swept the country illustrates cooperation with local law enforcement. Since January 1, 1957, more than 100 bombings or attempted bombings with apparent racial or religious aspects have been reported to the FBI. From October 12, 1958, through December, 1958, there were 801 bomb threats reported to the FBI. The FBI, of course, had no jurisdiction in these matters, in and of themselves.*

*Recognizing the danger to the national welfare from this terrorism, the FBI has expanded its assistance to local law enforcement in these cases. This assistance is not an attempt to usurp the jurisdiction of local authorities. To give the FBI this jurisdiction would be to relieve local governments of the basic responsibility to maintain law and order, and the ultimate responsibility rightfully rests at the local level.*

*To educate law enforcement officials at a local level as to what assistance the FBI can render in these cases, the FBI has conducted conferences not only throughout the United States, but also in Hawaii and Puerto Rico. They have been attended by more than 8,000 high-ranking law enforcement officials representing 3,687 agencies.*

*Whenever a bombing of an institution occurs and it appears that the bombing has racial or religious aspects, a ranking FBI official in the area immediately proceeds to the scene. In addition to assuming personal direction of all investigation indicating any Federal violation coincidental to the bombing, he offers the full cooperative services of the FBI to the local authorities. These services include the use of the FBI Laboratory and the Identification Division, as well as coverage of out-of-state leads for the local authorities.*

In this connection, the cooperative services of FBI Agents, FBI Laboratory experts, and FBI Identification Division experts have been made available to local authorities in such widespread areas as Georgia, California, West Virginia, and Illinois. As of the end of 1958, FBI assistance of this nature regarding both bombings and threatened bombings amounted to an estimated total expense of more than \$300,000.

It is obvious that most of these cases will be prosecuted at the local level. This joint effort by local authorities and the FBI exposes the utter falsity of Cook's charges that the FBI does not take local authorities into its confidence, does not cooperate with local authorities, and does not give to local authorities the credit which they deserve.

It is not necessary to dwell on the broad role which the FBI has played in matters of police cooperation. The author of the article himself has been forced to concede, grudgingly, that the FBI has, to put it in his own words, "played an important part in spreading the knowledge of...better, more modern methods through police departments across the Nation." To add to that, during the 1958 fiscal year alone, information from FBI confidential informants which was disseminated to other law enforcement agencies resulted in 1,695 apprehensions by those agencies and the recovery of more than \$900,000 worth of stolen property and contraband.

Close cooperation between the FBI and local and state law enforcement officers is the true lifeblood of law enforcement in this country. Effective law enforcement stems directly from continuous and sincere cooperation between all agencies involved.

## 25. Emphasis on Fascism

A significant feature of the article in The Nation is the author's praise for the FBI's efforts in the investigation of fascist activities. He commends the FBI for breaking up the German-American Bund, and states that the FBI was at its "skillful best" in the Duquesne case, in which 33 Nazi agents were rounded up, prosecuted, and convicted on the basis of their espionage activities. However, he finds the activities of the

FBI quite reprehensible when they involved counterintelligence efforts directed at Soviet espionage rings in which communists and communist sympathizers were implicated.

A close examination of Cook's article will, in fact, reveal a deliberate effort on his part to depict fascism as a menace and, at the same time, to minimize the danger of communism. The article states, for instance, that it was "ironic" and "worthy of special emphasis" that, in 1936, President Roosevelt's major concern was not with fascist sympathizers, but rather with the communists. As a source for this statement, Cook refers the reader to The FBI Story, by Don Whitehead. However, if the reader examines that source, he will find that in three different statements on page 158 of The FBI Story, Whitehead clearly and unequivocally declared that President Roosevelt's concern at the time was with fascism and communism alike.

#### 26. Parallels Communist Views

The author of The Nation article blends old, familiar communist charges with other unwarranted insinuations which have been made against the FBI through the years. Section II of this monograph contains typical examples of the close parallel between Cook's writings and the communist line.

Cook, as a so-called top crime reporter, did very little original research. This is obvious from an examination of various references he cites as a basis for some of his claims. In some instances, his material has been lifted almost verbatim from earlier attacks on the FBI, particularly one in the form of a book entitled The Federal Bureau of Investigation, by Max Lowenthal, published in 1950.

#### 27. Distortion and Inaccuracy

The publisher of The Nation, George G. Kirstein, made quite an issue of the validity of Cook's facts. On November 19, 1958, Kirstein issued a statement denying that the Cook article represented part of a campaign to smear the FBI. Commenting on the article, Kirstein declared that "it speaks for itself." In conclusion, he stated that while the article had aroused some

controversy, the publishers had not received what he termed a "single specification of factual inaccuracy."

The truth is that Cook's article is a maze of factual inaccuracies, untruths, and false conclusions. In addition to its distortion of major issues, which have already been examined, it contains numerous inaccuracies of varying degrees which are enumerated in detail in Section III.

## II. COOK AND THE COMMUNIST PARTY LINE

Cook's article in The Nation attacking the FBI shows a close parallel between his views and the official line of the Communist Party, USA, on a number of issues. The following excerpts are typical examples of how closely Cook parrots communist expressions. They also demonstrate that this similarity is characteristic of some of Cook's other writings.

### A. Blame for "Palmer Raids"

#### Cook

"...The Whitehead version certainly whittles down the magnitude of the Red Raids blunder. It does more. Whitehead gives Hoover credit for his perspicacity on the Communist issue; he lets Attorney General Palmer take the blame for whatever went wrong. This is a technique that the FBI itself has followed in recent years whenever the unpleasant subject of the Red Raids is mentioned; it is a technique that says quite frankly that Palmer and former FBI Director Flynn were the culprits, that Hoover was completely blameless."

(The Nation, October 18, 1958, p. 233.)

#### American Communists

"FROM THAT TIME ON the corps of FBI speech writers and public relations men has been trying to prove that Hoover had nothing to do with the Palmer raids and other wholesale arrests, and that his policy-making began only after he became chief. But recorded proceedings of Congressional committees reveal that Hoover himself arranged and directed the raids."

Daily People's World,  
December 24, 1953,  
Section II, p. 4.

\*The Daily People's World, former west coast communist daily newspaper, is now published weekly as the People's World.

B. Index of Radicals

Cook

"...Hoover...established in the GID a similar card index to keep track of radicals...."

. . . .

"...how accurate was the GID's enumerating of 60,000 radical leaders, its indexing of more than 450,000 names as the names of radicals? Were these really radicals or just persons who held different beliefs, unorthodox beliefs, that appeared radical to the compilers?...Any way you analyze the figures, it seems apparent that the GID's enormous card-index file of radicals must have contained the names of thousands of solid citizens who could not be adjudged ~~menaces~~ to their country by any criterion of action, but only by the authoritarian judgment passed by uncharitable policemen about the thoughts their minds held."

The Nation, October 18, 1958, p. 231.

American Communists

"Palmer reported to Congress in 1921 that the general intelligence division headed by Hoover actually had compiled 450,000 index cards."

"Hoover was not particularly discriminating as to whom he put on his index cards. Even the mildest liberal was suspect in his eyes."

"Ray Tucker, a conservative Washington correspondent who writes for the McClure syndicate, said in an article in Collier's on Aug. 19, 1933, that among those on Hoover's list back in the '20's were Supreme Court Justice Harlan Stone, Senator Thomas of Utah, Senator Wheeler of Montana, the late Senator Borah of Idaho, Dean Roscoe Pound, Felix Frankfurter, Frank P. Walsh and John L. Lewis."

"Even Herbert Hoover, that prototype of reaction, was not considered completely safe by J. Edgar Hoover...."

(Daily Worker,\* March 26, 1940, p. 4.)

\*The Daily Worker was an east coast communist newspaper which suspended publication on January 13, 1958.

C. FBI Appropriations

Cook

"...Hoover hardly ever fails to get all the money he asks for from Congress. In fact, Congressional committees frequently lean over backwards and ask him whether he is sure he has asked for enough; wouldn't he like to have some more?..."

(The Nation, October 18, 1958, p. 240.)

American Communists

"...It is true that the F.B.I. appears before a Congressional Committee once a year to ask for an appropriation. But it is also true that it always gets what it asks for, and each year more than the previous one..."

(Political Affairs,\* May, 1950, p. 120.)

\*Political Affairs is the Party's monthly theoretical publication.

D. J. Edgar Hoover

"...J. Edgar Hoover and the agency with which his name is inseparably linked--because in effect he is the agency--have been placed by public sentiment upon a pedestal and made the center of a cult of hero worship. Both have been garbed by popular imagination in robes of virtual infallibility. Because this is so, other questions inevitably arise. Is this lofty eminence completely justified? Even if it is, is there danger in it? For example, the

"...J. Edgar Hoover is today the undisputed Czar of the F.B.I., a master of self-adulation, who continually publicizes himself on the radio, in the press and magazines, speaks to women's clubs, graduating classes, business men, the Legion, etc. If ever there was a shining example of the 'cult of the individual,' it is exemplified in this politically illiterate and conceited man, who has used almost unlimited power for the attempted repression of the Bill of Rights."

(Political Affairs, May, 1958, p. 61.)

kind of danger that comes from granting to any man and to any human agency almost complete absolution from criticism, almost complete acceptance of all their ideas as gospel."

(The Nation, October 18, 1958, p. 222.)

#### E. FBI Files

##### Cook

"Muted footnotes to the entire critical question of the potential power of the FBI over Congress have been written from time to time in the decades since the Brookhart-Wheeler investigation. These footnotes fall largely into the category of rumor and speculation because there has never been another Congressional probe of the Department of Justice, and so there is no possibility of proof. But many individuals intimate with the intricacies of Washington life insist it is no secret that the FBI has amassed in its very private and confidential files detailed dossiers of information about everyone who really matters. Hints of this sometimes creep into the press, though less frequently in these days of beautiful Republican rapport than in the old days when 'that man' was menacing our democratic institutions...."

(The Nation, October 18, 1958, p. 240.)

##### American Communists

"THE power of J. Edgar Hoover, the spy army's general, can only be guessed at. For his power increase from year to year. Presidents may come and Presidents may go. But Hoover goes on from decade to decade. And he's celebrating his 40th anniversary in spy work this June.

"And today no Congressman defies him. For Hoover's secret files contain deadly ammunition that he would not hesitate to use."

(The Worker, March 3, 1957, p. 3.)



## F. Jencks Decision

### Cook

"One thing, at first glance, becomes apparent: Hoover in these latter years of the Warren Court, has not hesitated to step beyond the role of policeman and throw down the gauntlet to the judiciary. His 1958 criticism of the Supreme Court was no isolated harpoon, flung on the spur of the moment.

Less than a year previously, he had been chiefly instrumental in kicking up a public storm against the Court, precipitating a controversy that lasted for months and that carried the imputation that the Court had become a positive menace.

"The furor centered on the Court's decision in the Jencks\* case. It was sparked by repeated barbed statements by Hoover; it was marked by deliberate maneuvers by him to force Congressional action to curb the Court. The entire sequence offers a dramatic study in contrasts--the reality about what the Court actually said conflicting with the myth that Hoover promulgated about what it said. The actual language and decree of the Court were buried and lost to view in the public acceptance of the myth."

(The Nation, October 18, 1958, pp. 222-223.)

\*Italicized in original.

### American Communists

"THE SUPREME COURT decision Monday calling for a new trial for labor leader Clinton Jencks may be considered by many a legal landmark. It says in plain language that if the Department of Justice and the FBI are to use informer-witnesses in court, they must be prepared to produce the relevant written reports of their informers."

"J. Edgar Hoover is organizing a counter-attack through his high-powered FBI publicity machine, newspaper and congressional friends. He well knows that if his informers can be cross-examined on their written reports, their tailor-made testimony will be discovered to be woven of shoddy frame-up thread.

"Hence the frenzy in Brownell-Hoover circles and their Senate and House pals. They have a vested interest in the witch-hun and the great anti-labor trusts behind them have an even deeper interest...."

(Daily Worker, June 5, 1957, p. 5.)

## G. FBI and Organized Crime

### Cook

"Over the years, Hoover has talked tough about getting the big-shot racketeers, and the public and the press, accepting these pronouncements, have looked upon the FBI as the Nemesis of big-time crime; yet actually, startlingly, the record shows that the real czars of the underworld, accomodating gentlemen when it comes to bankrolling political machines, rarely have been touched. The Syndicate has flourished in the very years of Hoover's ascendancy, capping its performances with the display of mob government in council at Apalachin."

(The Nation, October 18, 1958, p. 277.)

## H. FBI Above Criticism

"...the FBI, like any other human agency, is not perfect; it makes mistakes, sometimes serious ones. And because it does, it should not be placed, any more than any other human agency should be placed, upon such a pinnacle that its actions, its pronouncements, may not be questioned without the critic running the risk of being considered an enemy of the republic.

### American Communists

"...This \$20,000 a year snooper, whose men are ready to sift garbage or spy on the family affairs of a Senator, who will arrest a child but have been unsuccessful in tracing down the top hundred gangsters of the country--surely it is time for him to be exposed as an incompetent fraud....He is so busy witch-hunting, that the F.B.I. with all its facilities actually contributes approximately only 1 per cent of all criminal arrests and convictions in the U.S.A."

(Political Affairs, May, 1958, p. 65.)

"J. Edgar Hoover has often mistaken himself for God. At least he has claimed the divine right of immunity to criticism once asserted by absolute monarchs. But if he has never discovered his own fallibility, other people have."

"The FBI is no longer a sacred cow. It is being exposed as an

"American democracy has not granted such immunity from criticism, such immunity from the thinking processes of the human intellect, to the greatest and most revered of our Presidents.... In all the annals of American history, it would probably be impossible to find another major and extremely powerful public figure who has been granted the immunity that since 1940 has been J. Edgar Hoover's lot--immunity not just from attack on important questions, but even from the hasty, harsh word."

(The Nation, October 18, 1958, p. 277.)

#### I. Masters of Deceit

##### Cook

"FBI Director J. Edgar Hoover has produced in the almost universally-praised Masters of Deceit a book that, it would seem, can succeed only in fanning the embers of McCarthyism and acting as a formidable deterrent to intellectual dissent on the basic issues of our time."

(The Nation, May 24, 1958, p. 478.)

ominous political police. Hoover is no longer secure in his delusion of divine rights. Many Americans now see him as another and more dangerous Joe McCarthy.

"The American people whittled McCarthy down to size. It is surely time to curb Hoover too--and to eliminate his stable of hired professional liars."

(Daily People's World, October 14, 1955, Section II, p. 2.)

##### American Communists

"... 'Masters of Deceit' was published at this time for these purposes:

"To re-build a red menace atmosphere largely dissipated by the anti-McCarthy mood among the people and a series of Supreme Court decisions. It seeks to do by indirection what Senator Jenner and his clique are doing more openly in the Senate--create a political climate against the Bill of Rights."

(The Worker, April 13, 1958, p. 11.)

J. Remington Case

Cook

"...There was tremendous political capital to be made from the Communists-in-government issue, which had been hung about the neck of the Truman Administration like a dead and smelly albatross. Remington was Exhibit B, second only to Alger Hiss, in the catalogue of betrayal..."

(The Nation, December 28, 1957, p. 493.)

American Communists

"The innocent, foully murdered William Remington is the victim of more than the brick wielding prisoner and the shoulder-shrugging warden. He is the victim of the whole frameup system which continues to undermine the Constitution and produce ever more victims for the anti-Communist headlines. Yes, he is the victim of these very headlines which scream of 'treason' and 'spies' in reference to people not even CHARGED with being those things."

(Daily Worker, November 25, 1954, p. 5.)

K. Guilt by Association

"At the core of the Alger Hiss case lies the theory of guilt by association. From the outset, the House committee adopted the attitude that, if the details Chambers gave about Hiss were accurate, they showed a close association between the two men; and if there had been a close association, then it followed that Hiss had been a Communist. And if Hiss had been a Communist, then it followed that he had stolen and passed secret data to Chambers."

(Fred J. Cook, The Unfinished Story of Alger Hiss, N.Y.: William Morrow Co., 1958, p. 21.)

"It was McCarthy who built a whole edifice for the charge of Democratic Party 'treason' out of the Hiss case....

"All McCarthy had to do--and he did it with roaring headlines--was to use the technique of guilt by association to build up his case. Hiss was a 'traitor' (although he had never been charged or convicted of treason) and, therefore, anybody who was associated with Hiss was also guilty of 'treason.'..."

(The Worker, November 28, 1954, p. 6.)

L. Hiss Case

Cook

"Never were two more starkly contrasting characters cast as the protagonists of national drama than Alger Hiss and Whittaker Chambers...."

"These were the principals who were to clash in irreconcilable conflict before the House Un-American Activities Committee in the summer of 1948. The timing has, perhaps, a certain significance. It was at the beginning of a presidential campaign. Franklin D. Roosevelt, who had routed Republican adversaries with such ease for so long, had died... Victory for the Republicans looked temptingly close.

"Their party was in control of the House and in control of the Un-American Activities Committee...."

"...The Republicans set out to prove that the Roosevelt and Truman administrations had been so riddled with Communist-sympathizers that spies had had a field day stealing some of the nation's most precious secrets...."

(The Unfinished Story of Alger Hiss, op.cit., p. 2., 4,5)

American Communists

"Hiss is just a fall guy for much bigger game. The Hearst press tipped the hand of the men who launched this obscene spectacle with the disgusting Whittaker Chambers as their finger-man. The Hearst press shouts that Hiss' conviction proves that the New Deal was 'pro-Russia' and that by implication, any American from FDR down who ever worked for, or STILL WORKS FOR, American-Soviet cooperation and peace is a 'fifth columnist.' The Hiss trial was rigged by men who want to outlaw the peace movement in our America, who want to make peace synonymous with espionage."

(Daily Worker, January 24, 1950, p. 7.)

### III. FACTS VERSUS CHARGES

Parts A and B of this section of the monograph consist of a detailed examination of the charges and issues raised by Cook's article. They are presented in the following format for a point-by-point refutation of Cook's charges: (1) background information on the various cases and issues, (2) the context or the purpose behind Cook's use of the material, (3) Cook's charges, and (4) the facts refuting the charges.

Part C of the Section enumerates many errors and inaccuracies in the article.

#### A. Cases and Situations

##### 1. Criminal Matters

##### a. Kidnapings

##### (1) Lindbergh Case

##### Background

Charles A. Lindbergh, Jr., 20-month-old son of the famous aviator, was kidnaped on March 1, 1932, from the nursery of the Lindbergh home near Hopewell, New Jersey. On May 12, 1932, after \$50,000 had been paid for the child's ransom, the body of the infant was found partly buried in the underbrush about four and a half miles from the Lindbergh home. After extensive investigation, Bruno Richard Hauptmann was arrested by FBI Agents and officers of the New York City Police Department and the New Jersey State Police on September 19, 1934. After his conviction, he was executed on April 3, 1936.

##### Context

Cook cites this case as an example of how

the FBI claimed the credit for cases which were actually solved by other law enforcement agencies.

### Charge

The Lindbergh case was solved by local authorities.  
(pp. 242-244, 249)\*

### Facts

While the FBI had no official jurisdiction in the Lindbergh case, it entered the investigation at the specific direction of President Herbert Hoover. The FBI cooperated closely with the New Jersey State Police and the New York City Police Department in all phases of this case. The Bureau covered countless leads throughout the country and furnished the results to the New Jersey State Police in report form. The FBI Laboratory conducted numerous scientific examinations of the ransom notes, ransom currency, bank deposit slips, handwriting specimens, et cetera. Since a portion of the ransom money had been paid in gold certificates, the FBI recognized that an earlier Presidential proclamation requiring the return to the Treasury of all gold and gold certificates offered the best possibility for tracing the ransom money. Accordingly, the FBI prepared a pamphlet listing the serial numbers of the ransom currency. This pamphlet was widely disseminated to banks, clearinghouses, transportation terminals, stores, et cetera.

On September 18, 1934, a bank official in Manhattan reported to the Bureau's New York Office that one of the ransom bills had been discovered a few minutes previously by one of the bank's tellers. An immediate check of the bill by Bureau Agents and representatives of

\*All charges set forth in this section are from Cook's article in The Nation, October 18, 1958.

the New York City Police Department and the New Jersey State Police disclosed that it had been received from a filling station attendant who had been given it a few days previously in payment for gasoline. Suspicious of the gold certificate, the attendant noted on the bill the license number of the car of the purchaser. The FBI, assisted by representatives of the New York City Police Department and the New Jersey State Police, ascertained that the license was registered to Bruno Richard Hauptmann, who was arrested on September 19, 1934, by representatives of all three agencies.

Thus, in addition to its extensive cooperation with both the New Jersey State Police and the New York City Police Department, it was the FBI's list of the ransom bills which was directly responsible for the apprehension of Hauptmann and the solution of the case.

(2) Weyerhaeuser Case

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Background

[redacted] son of a prominent lumberman, was kidnaped on May 24, 1935, at Tacoma, Washington. He was returned unharmed on May 31, 1935, after a ransom of \$200,000 had been paid. On June 8, 1935, Harmon Waley was arrested in Salt Lake City, Utah, by FBI Agents and confessed that he and William Dainard had perpetrated the kidnaping. Dainard was apprehended by the FBI in Los Angeles on May 7, 1936.

Context

Cook cites the Weyerhaeuser case as an example of how the FBI claimed the credit for cases which were actually solved by local authorities.



### Charge

The Weyerhaeuser kidnaping case was solved by local authorities. (p. 249)

### Facts

The FBI conducted extensive investigation in the Weyerhaeuser case. As part of this investigation, the serial numbers of the ransom money were circularized to banks, clearinghouses, transportation terminals, hotels, et cetera. As a result of this circularization and other investigation, it was determined that Harmon Waley had used one of the ransom bills to purchase a railroad ticket from Huntington, Oregon, to Salt Lake City, Utah, on June 2, 1935. At the same time, numerous ransom bills began to appear in Salt Lake City. Due to the limited number of FBI Agents available in Salt Lake City, arrangements were made for the Salt Lake City Police Department to station detectives in several downtown Salt Lake City stores. Each of these stores was furnished a copy of the list of the serial numbers of the ransom notes. On June 8, 1935, a Salt Lake City detective learned that one of the ransom bills had been passed by a woman later identified as Margaret Waley. The detective took Margaret Waley to the Salt Lake City FBI Office, where another ransom bill was found in her purse. Later on the same date, Harmon Waley was apprehended by FBI Agents and confessed that he and William Dainard had perpetrated the kidnaping.

Dainard was apprehended by FBI Agents in Los Angeles, on May 7, 1936. His arrest resulted when two Los Angeles bank employees recognized, despite alteration of some ransom money serial numbers, several bills by means of an FBI list of ransom serial numbers and noted the license number of Dainard's car.

### (3) McElroy Case

#### Background

Mary McElroy, the daughter of the then city manager of Kansas City, Missouri, was kidnaped on May 27, 1933. She

was released the following day after her father paid \$30,000 ransom. Walter McGee, George McGee, Clarence Click, and Clarence Stevens were implicated in the kidnaping. On June 2, 1933, Walter McGee was arrested by local police at Amarillo, Texas. Clarence Click was arrested by the Kansas City, Missouri, Police Department on June 2, 1933. George McGee was arrested by local authorities in Roanoke, Virginia, on June 17, 1933. Process against Clarence Stevens was dismissed in 1944, since he was never located and in view of the death of the victim, Mary McElroy.

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#### Context

Cook cites this case as an example of how the FBI claims credit for cases which were actually solved by local authorities.

#### Charge

The McElroy kidnaping case was solved by local law enforcement authorities. (p. 249)

#### Facts

In this case, the FBI and the Kansas City, Missouri, Police Department cooperated closely from the outset. The information regarding the participation of Walter and George McGee, Clarence Click, and Clarence Stevens was developed jointly. The information which led to the arrest of Walter McGee was developed by the FBI. The information which led to the arrest of Clarence Click was developed by the Kansas City Police Department. When the true identity of George McGee was determined through his arrest under an alias at Roanoke, Virginia, the FBI was immediately notified. On interview by FBI Agents, George McGee admitted his identity and his participation in the McElroy kidnaping.

#### (4) Stoll Case

##### Background

Mrs. Alice Speed Stoll, wife of a gasoline refining official, was kidnaped on October 10, 1934, at Louisville, Kentucky. She was located alive by the FBI on October 16, 1934, near Scottsburg, Indiana, after \$50,000 in ransom had been paid in Indianapolis, Indiana. From the ransom note, the FBI Laboratory positively identified Thomas H. Robinson, Jr., as the kidnaper. He became the object of a nationwide search and was apprehended by FBI Agents in Glendale, California, on May 11, 1936. He was sentenced to life imprisonment after pleading guilty to the charge of kidnaping.

##### Context

Cook cites this case as an example of how the FBI claimed credit for cases which were actually solved by other law enforcement agencies.

##### Charge

Cook charges that the FBI claimed exclusive credit for solution of the Stoll case, although local police actually furnished the vital clue to its solution. (p. 249)

##### Facts

No police assistance was involved in solving this case.

##### Charge

Cook claims that information received from the Pasadena, California, Police Department was of assistance in locating Thomas H. Robinson, Jr. He cites a United Press dispatch to the effect that Lynn Allen, a lunch-counter

manager in a Pasadena drug store, claimed to have observed Robinson, masquerading as a woman, in the drug store about two weeks prior to his apprehension. Cook claims that Allen reported this to the Pasadena Police Department, which, in turn, notified the FBI. (p. 249)

### Facts

Robinson was located and apprehended in Glendale, California, through information developed solely through investigation conducted by FBI Agents. The absurdity of Allen's story is evident since he claimed that he had seen Robinson masquerading as a woman two weeks before his arrest. Actually Robinson could not have been posing as a woman, because the FBI's investigation disclosed that he had worn a mustache for over a year prior to his arrest.

On July 13, 1936, Allen himself wrote the Bureau asking for a reward for his help in the Robinson case. The Director, by letter dated July 27, 1936, replied: "...I wish to advise you that you furnished no information and contributed in no way to the apprehension of Thomas H. Robinson, Jr. This will also inform you that the apprehension of Robinson, Jr., resulted from investigation performed solely by Special Agents of this Bureau."

### b. George "Machine Gun" Kelly

#### Background

George "Machine Gun" Kelly was one of the kidnapers of Charles F. Urschel, a wealthy oil man. The kidnaping occurred at Oklahoma City, Oklahoma, on July 22, 1933. Kelly was arrested at Memphis, Tennessee, on September 26, 1933, by FBI Agents and local police.

### Context

The arrest of Kelly is used by Cook to support his contention that the reputation of the FBI has been built largely on myth, legend, and sensation. It also is used with the implication that the FBI does not give credit for the work done by local police authorities, but rather takes the credit for their accomplishments.

### Charge

Citing an article by Howard McLellan which appeared in Harper's Magazine in January, 1936, concerning the arrest of Kelly and attributing the arrest to a detective of the Memphis, Tennessee, Police Department, Cook states that, if the article is true, "the FBI-inspired accounts certainly hog the spotlight from the Memphis cops." (p. 245)

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### Facts

The apprehension of Kelly was effected under the direct supervision of Special Agent in Charge W. A. Rorer of the FBI's Memphis Office in an operation which utilized two FBI Agents and five members of the Memphis Police Department. To effect the apprehension, Rorer placed one Agent and four local officers outside the house to cover escape routes. Rorer, Agent [redacted] and [redacted] of the Memphis Police Department entered the house. After entry had been obtained, the first persons seen were two men asleep in a bedroom. Rorer directed [redacted] and [redacted] to cover them after he had ascertained neither was Kelly. Rorer rushed to the rear of the house looking for Kelly who, meanwhile, appeared from another bedroom. Kelly, who was unarmed, was immediately covered by [redacted] who was nearest him, and was then handcuffed. [redacted] subsequently found a .45 Colt automatic lying on a sewing machine in the hall. He stated he believed Kelly had placed it there after he had ascertained the house was surrounded and had seen there was no opportunity for escape.

### Charge

Cook charges the FBI was subsequently attempting to "wring the last drop of sensation and publicity value out of the arrest," by taking all the credit for it. (p. 245)

### Facts

Immediately after the apprehension, the Director acknowledged the part which [ ] and the other four members of the Memphis Police Department had played by sending letters to each expressing his appreciation for their cooperation.

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### c. Kansas City "Massacre"

#### Background

One morning in June, 1933, four FBI Agents (including the Special Agent in Charge of the Kansas City Office) and three police officers were escorting Frank Nash, an escaped Federal prisoner, from the Kansas City Union Railway Station to an awaiting car when an attempt was made to free Nash. Armed with machine guns and other weapons, Charles "Pretty Boy" Floyd, Vernon Miller, and Adam Richetti opened fire on the law enforcement officers, killing four and wounding two. In the midst of the carnage, Nash was also killed. After intensive investigation, Floyd was shot and killed resisting arrest; Richetti was executed at the Missouri State Penitentiary; and Miller was murdered by fellow hoodlums.

#### Context

Although Cook is not too critical of the FBI for its part in the "massacre," he does use a phrase from Whitehead's book, The FBI Story (p. 98), to accuse the Agents of letting down their guard prematurely.

This he adopts to support his claim that the FBI is not "as perfect as it is painted by its shouting partisans."

#### Charge

Cook quotes Whitehead as saying, "'At this moment (after Nash was placed in the car), the agents and police officers relaxed their guard.'" Cook then goes on to castigate the FBI for letting carelessness result in the deaths of four persons and the wounding of two. (p. 245)

#### Facts

Whitehead's implication that the Agents and accompanying officers got careless at a crucial moment is undoubtedly a piece of literary license he indulged in for the sake of color. Bureau files show no indication whatsoever of carelessness or "relaxing (of) their guard" by the officers involved. Instead, the reports of the Agents involved, submitted less than a week after the event--while one was still critically wounded--indicate that they saw the gunmen approaching, but because of the surrounding cars, could not tell they were carrying weapons beneath the hood level. To carp on this one isolated remark--which was certainly not intended for the use to which Cook put it--is an example of the lengths to which this "objective appraisal" goes to find something critical of the FBI.

#### d. John Dillinger

#### Background

John Dillinger's record as a notorious criminal began formally in September, 1924, when the State of Indiana sentenced him to serve a 2- to 14-year and 10- to 20-year term, respectively, for assault and battery and conspiracy to commit a felony. After his parole in May, 1933, he engaged

upon a career of murder, bank robbery, and theft, which made him one of the most publicized and sought-after criminals in the country. Dillinger and his associates rampaged through the Midwest for nearly 10 months, always outside the jurisdiction of Federal authorities. It was not until March, 1934, when Dillinger stole a car after escaping from the Crown Point, Indiana, jail that the FBI actively initiated investigation to apprehend him. Dillinger drove the automobile to Chicago, Illinois, where he abandoned the car. Since this stolen automobile was transported across state lines, it constituted an offense within the FBI's jurisdiction. Dillinger met his death at the hands of FBI Agents in Chicago, Illinois, in July, 1934, while resisting arrest.

#### Context

Cook cites the Dillinger case as an example of the conflict between the true circumstances, as he puts it, and the "myth of perfection and infallibility" which press-agentry has created for the FBI. He uses the case to depict the FBI as a bungling, gun-slinging outfit which operates on the principle of not taking local police authorities into its confidence and which exploits the work of local police authorities by taking credit they actually deserve.

#### Charge

In their first encounter with Dillinger, FBI Agents bungled the attempted apprehension. Dillinger and an aide, Eugene Green, were trapped in an apartment, a hard place usually to get out of; there was a furious machine-gun battle; Green was fatally wounded, Dillinger less seriously nicked. But both men, amazingly, got clean away. (p. 246)



### Facts

In the first place, Eugene Green was not involved in the incident. Dillinger's companions were Homer Van Meter and a woman companion. The incident, as Cook states, occurred in St. Paul. The date was March 31, 1934. On the previous day, the manager of the apartment building had contacted the local FBI Office and had advised she had rented an apartment to two men and a woman whose actions had aroused her suspicions. There was no indication who the individuals were. A surveillance of the apartment that evening disclosed nothing unusual. The following morning, two FBI Agents and an officer of the St. Paul Police Department decided on a direct approach as a means of identifying the occupants. An unexpected gun battle occurred, with one of the unidentified men wielding a machine gun, and the two men and their companion fled. Dillinger, who was shot in the gun fight, and his companions were not identified until subsequent developments disclosed their identity.

### Charge

The next encounter the FBI had with Dillinger failed because it did not take the local police into its confidence. The incident took place on April 30, 1934, at a roadhouse known as the Little Bohemia Lodge, which was in a secluded area some nine miles from Mercer in northern Wisconsin. Post mortems showed that only three narrow roads led out of the wooded resort area, and these, had local officers who knew the countryside been allowed to help, could easily have been sealed off with road-blocks before the raid was staged and the quarry alarmed.  
(pp. 246, 247)

### Facts

The raid took place on April 22, 1934, and not on April 30, 1934, as Cook states. On the afternoon of April 22, an individual named [redacted] advised the FBI Office in Chicago that Dillinger, six men, and three women were located at the Little Bohemia Lodge. Agents from both the Chicago and St. Paul Offices immediately left

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their respective offices via chartered planes for Rhinelander, Wisconsin, a town located approximately fifty miles south of Dillinger's hideout. Additional Agents were proceeding there with cars. Rhinelander was to serve as a base of operations for drawing up a plan of attack which was to take place the following dawn.

At 7:30 on the evening of April 22, before all of the additional Agents had arrived with the Bureau cars and additional equipment, word was received that Dillinger and his companions planned to leave the lodge that night. Immediate action was imperative; further planning was impossible. No purpose would have been served by notifying the law enforcement authorities at Rhinelander, because they had no jurisdiction in the area where the lodge was located. It was impossible to call ahead to alert law enforcement officials in the area of the lodge. The Bureau's informant in the case lived in the area and had told Agents he was afraid to use the telephone, not only because he feared Dillinger, but also because he had no confidence in the local officials.

The Milwaukee Journal, on April 26, 1934, contained an editorial about the circumstances of the situation, summing it up in the following way:

"To telephone around, in a woodland country, gathering up a local posse is to pass the word of a coming raid pretty generally to everybody.

"To try and function, quickly and effectively, through our various county sheriff's departments, is to rely on scattered and unknit forces, not really trained in police technique.

"It is logical that federal agents should prefer to work quietly and without local help in such a situation as they faced near Rhinelander."

### Charge

With all the "massive federal activity," Cook derides, "it remained for local cops to come up with the information that really did Dillinger in." The East Chicago, Indiana, Police Department received the information about Dillinger's whereabouts, notified the FBI, and the trap was set. Cook again implies that the trap was another example of FBI efforts to grab the "glory," by stating that at the final moment when the trap was sprung, Dillinger scented danger, clawed at his pocket for a gun, and was gunned down by "fifteen agents." (pp. 247, 248)

### Facts

The information received from the East Chicago, Indiana, police was the result of extensive cooperative efforts which had served as the basis for combined state and Federal efforts to bring Dillinger to justice. As early as October, 1933, long before the FBI directly entered the Dillinger case, conferences had been held between the FBI and authorities in Ohio and Indiana in which the available services of the Federal Government had been offered to police agencies of those states in the Dillinger case. In December, 1933, SAC M. H. Purvis of the Chicago Office, attended a conference with high-ranking officials of the Chicago Police Department for the purpose of beginning concentrated efforts leading to Dillinger's arrest. The FBI offered full cooperation in the matter.

Finally in this regard, it should be noted that officers of the East Chicago Police Department advised Purvis that they had furnished the information to the FBI and not local authorities in the State of Indiana or Illinois because they felt the FBI could keep the information confidential. Thus, the final trap was not a "glory" move by the FBI. Participating in it were five officers of the East Chicago Police Department, about whom many press articles were written concerning their part in it.

### Charge

Cook draws a sharply contrasting picture of the "FBI fusillade" which ended Dillinger's life and the ease with which local police in Tucson, Arizona, had rounded up the Dillinger gang "without the popping of a single gun" six months earlier. Inherent in this expression of views is the charge that the FBI uses unnecessary gunplay. (pp. 246, 248)

### Facts

There was a vastly differing set of circumstances surrounding the person of Dillinger who was arrested in Tucson and the Dillinger who was killed in Chicago six months later. Between the time of his arrest in Tucson and the time of his death, he had escaped from jail, committed numerous bank robberies and other crimes, engaged in gun fights, resisted apprehension, and in effect had become a vicious criminal able and willing to fight it out regardless of the risks. There is no indication Dillinger was armed at the time of his apprehension in Tucson. In Chicago, he not only was armed, but also attempted to use his weapon.

### Charge

Cook charges that Dillinger was turned into "an icily inhuman killer" by publicity about an "official order to shoot Dillinger on sight." He builds his charge by citing an article which appeared in Harper's Magazine in January, 1936, in which this claim was made and adds to it by stating the Department of Justice "offered a tempting reward for Dillinger, dead or alive." He caps it by claiming the then Attorney General, Homer S. Cummings, issued an order, "'Shoot to kill--and then count ten.'" (pp. 246, 247)

### Facts

The Director, by letter dated January 24, 1936, met this charge directly after it appeared in Harper's. The letter was a strong protest to the editor of Harper's, and the Director stated specifically, "Let me say, as succinctly but emphatically as possible, that no such instruction was ever issued to any representative of the Federal Bureau of Investigation by the Attorney General, by me, or by anyone else, in connection with this particular case or any other case in which the Bureau's representatives have functioned."

It should also be noted that on June 23, 1934, Attorney General Cummings offered a \$10,000 reward for the capture of John Dillinger.

### e. Alvin Karpis

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### Background

Alvin Karpis was sought by the FBI because of his participation in two cases of kidnapping for ransom, one involving the abduction of [redacted] at St. Paul, Minnesota, on June 15, 1933, and the other involving the abduction of [redacted] at St. Paul on January 17, 1934. Karpis was a member of the infamous Barker-Karpis Gang. These criminals were responsible for many violent acts of lawlessness throughout the Midwest during the early 1930's. Karpis was apprehended by FBI Agents, led by the Director, in New Orleans, on May 1, 1936, and was sentenced to life imprisonment.

### Context

In support of his general claim that the FBI unjustly takes credit for solving important cases, Cook specifically alleges that the FBI caught Karpis in New Orleans on information developed by postal inspectors.

### Charge

*The postal inspectors scored first when, with Kansas State Police, they nabbed one member of Karpis' mob in March, 1936. (p. 248)*

### Facts

*It is hard to see how Cook can maintain that the postal inspectors "scored first" in breaking up "Karpis' mob," when FBI Agents had already arrested Arthur "Doc" Barker on January 8, 1935, in Chicago, Illinois, and had killed Kate "Ma" Barker and her son, Fred, on January 16, 1935, near Lake Weir, Florida.*

### Charge

*"Much miffed afterwards," postal inspectors intimated that the G-men were acting on leads they had developed. "Hoover denied it, though he never has said just how he learned Karpis' exact address...." (p. 248)*

### Facts

*Postal inspectors sought Karpis for the robbery of a mail train at Garrettsville, Ohio, on November 7, 1935. Nearly a month prior to this robbery, FBI Agents had been attempting to locate Karpis in Hot Springs, Arkansas. Finally, on April 27, 1936, Grace Goldstein, whose house of prostitution in Hot Springs had been frequented by Karpis, was picked up by FBI Agents, and confidentially advised them of Karpis' whereabouts in New Orleans. This lead was developed completely independent of the postal inspectors and was in no way attributable to them.*

### Charge

Cook refers to the Director's appearance before the Senate Appropriations Committee in 1936 and claims that Senator Kenneth D. McKellar, of Tennessee, inquired sarcastically as to why Mr. Hoover, after twelve years as head of the Bureau, had not at that time made any apprehensions. (p. 248)

### Facts

Cook overlooks the fact that the power of arrest and the authorization to carry firearms were not given to Bureau Agents until June, 1934. Prior to that, Agents had been required to request local officers to make arrests for them. In addition, by the very nature of his duties, Mr. Hoover was not expected to be physically handling cases in the field. As Director of the FBI, his primary job was to be at headquarters directing over-all operations. As Whitehead points out in his book, "The question was much the same as asking a commanding general why he wasn't down in a foxhole with a rifle rather than being at his command post." (Whitehead, op. cit., p. 108)

### f. Harry Brunette

#### Background

Harry Brunette was the subject of several Bureau bank robbery cases and a kidnaping case. In 1936, he was a fugitive from a series of bank robberies and the kidnaping of a New Jersey State trooper. He was apprehended by Bureau Agents in New York City on December 15, 1936. The raiding party was led by Mr. Hoover and Assistant to the Director Clyde A. Tolson.

### Context

*The Brunette case is used to substantiate the claim that the FBI does not cooperate with local police authorities. The case is also used to support the contention by Cook that the FBI engages in wild gunplay.*

### Charge

*The FBI did not enter the Brunette case until being notified of his whereabouts. Local authorities "made it clear that their detectives located Brunette and that they had told the FBI the details only after they had Brunette under surveillance." (p. 250)*

### Facts

*This is completely false. The FBI had been engaged in investigation of the case from the beginning. It was the joint effort of FBI and local authorities which located the general area where Brunette was hiding out.*

### Charge

*Local authorities made a house-to-house canvass of the general area and located the apartment in which Brunette was hiding. It was at this point that the FBI was advised. (p. 250)*

### Facts

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*The house-to-house canvass was made by a [redacted] of the New Jersey State Police, a [redacted] of the New York City police, and Special Agent [redacted]*



### Charge

"The raid was not staged with maximum stealth." The G-men began the action by trying to shoot the lock off Brunette's apartment door. Brunette grabbed his guns and shot back. "Bullets began to ricochet around the walls of the apartment building where twenty families lived." Unable to outshoot Brunette, the Federal Agents began hurling tear-gas bombs, trying to smoke him out. (p. 249)

### Facts

The Director, Mr. Tolson, and Special Agent [redacted] went to the door of Brunette's apartment. The Director rang the bell, knocked on the door, and called to the occupants to come out with hands up as Federal officers were outside. An attempt was made by an occupant to leave by the rear window but an Agent there shouted for them to surrender and was greeted by gunfire. Upon hearing the shots, Agents threw a smoke grenade through the front window and Brunette's wife came out, slamming the door after her. Brunette shouted to Agents, "Try blasting your way in." Agents then shot the lock of the door with a machine gun, but the lock jammed. Prior to all this, Bureau Agents had aroused and warned all apartment occupants who might have been in danger if any shooting occurred during the apprehension. In addition, another Bureau Agent had been stationed at the street intersection to prevent traffic and pedestrians from entering the area if shooting began.

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### Charge

One of the bombs set fire to the building. Firemen were summoned. "The fire-fighters found themselves caught in a cross-fire of bullets, and it seems a miracle none of them got killed..." (pp. 249, 250)

### Facts

When firemen arrived on the scene, they broke open the jammed lock with a crowbar and axe from a sheltered position. After FBI Agents apprehended Brunette, the firemen were permitted to enter the apartment to handle the fire. In fact, the only shots fired from the front of the apartment after firemen arrived on the scene were those fired by a Deputy Police Commissioner and his chauffeur who, upon their arrival, each fired six shots into the front window of Brunette's apartment.

### Charge

Detectives made a careful study of the building, noted means of escape, examined Brunette's apartment while he was out, and set up a "plant" in another apartment. (p. 250)

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### Facts

FBI Agent [ ] and [ ] examined the cellar of the apartment and checked for escape routes. Agent [ ] alone borrowed a key and examined Brunette's apartment while the others returned to a "plant" originally set up in another building. Agent [ ] set up a "plant" in an apartment in the same building Brunette was in, to be able to watch the rear entrance.

### Charge

An "ironclad agreement" had been made which provided that the New Jersey State Police, the New York City police, and the FBI would "act in concert" to raid Brunette's apartment at two o'clock on Tuesday afternoon, December 15, 1936. (pp. 250-251)

### Facts

FBI Agents had specifically rejected a proposal made on December 10, 1936, by New Jersey State Trooper [redacted] that Brunette be turned over to New York City police, explaining that it was impossible to make such an agreement since a Federal detainer was outstanding against the subject for bank robbery. As late as the evening of December 14, 1936, [redacted] asked [redacted] if any plan was established in the event of Brunette's appearance and was advised there was no agreement of any kind.

### Charge

"Notwithstanding this agreement," Hoover personally led the G-men on the raid shortly after midnight. One of his own agents, Hoover said, had seen Brunette on the street with a woman about midnight and had seen them go into the 102nd Street building. (p. 251)

### Facts

Shortly before midnight of December 14, 1936, FBI Agents [redacted] and [redacted] observed and identified Brunette with a woman at 103rd Street. [redacted] returned to the "plant" covering the front entrance to advise the State troopers stationed there of the observation, but they said they had seen the man and woman and that it was not Brunette. Meanwhile, [redacted] had followed Brunette into the house, had gone to the "plant" located there, and observed the lights go on in Brunette's apartment.

### g. Louis "Lepke" Buchalter

#### Background

During the 1930's, Louis "Lepke" Buchalter and Jacob "Gurrah" Shapiro gained notoriety as members of the "Big Six" Combination, a reputed inner circle of underworld

leaders which also included Frank Costello, Charles "Lucky" Luciano, Abner "Longie" Zwillman, and Benjamin "Bugsy" Siegel. FBI investigation into the racketeering activities of Buchalter and Shapiro commenced in 1932, and, in November, 1933, more than 150 persons were indicted by a Federal Grand Jury in New York for violations of the Sherman Anti-Trust Act. Both Shapiro and Buchalter were convicted in Federal courts for their leading roles in the labor and industrial rackets, which had been operated in an atmosphere of intimidation, extortion, and murder. When the case of the Fur Dressers Factor Corporation was called for trial in July, 1937, Buchalter and Shapiro failed to appear, forfeited bail, and were declared fugitives. Shapiro surrendered to Federal authorities in April, 1938, after relentless investigation by the FBI and local agencies. With this development, the FBI concentrated its resources in an international manhunt for Buchalter, who surrendered to Mr. Hoover personally in New York City on August 24, 1939.

#### Context

The Buchalter case is used in an attempt to prove the contention that the FBI tries to grab the "glory" in newsworthy cases, and does not cooperate with local authorities.

#### Charge

For years, Buchalter had been a big-time hoodlum leading the charmed life of the untouchable until Dewey, in the late 1930's, began to ride herd on the rackets. With the spotlight turned on Buchalter and with it obvious "to any schoolboy" that he was a fugitive beyond the pale of local jurisdiction, the FBI stepped in. This, according to Cook, was the situation in 1939. (p. 260)

### Facts

The facts are that FBI investigation of Buchalter's activities had originated as early as 1932. In fact, Buchalter became a fugitive in 1937, after jumping bail in a Federal case in which he had been convicted after extensive investigation by the FBI.

### Charge

After New York authorities offered \$25,000 for information leading to Buchalter's capture, the FBI similarly offered \$25,000 if it received the information first; otherwise all it would pay would be the \$5,000 reward it customarily paid for the apprehension of a top fugitive. (p. 260)

### Facts

An accurate statement of the FBI's position in this matter was carried in the New York Herald Tribune on August 23, 1939, the day prior to Buchalter's surrender:

"Rewards are made 'commensurate' with the value of information supplied. In the Lepke case, the value has already been fixed at \$25,000, that sum having been set... (by New York City authorities). The F.B.I., it was learned, is willing to meet the price fixed by the city, but does not offer its reward as a competitive bid for information on Lepke's whereabouts. It merely offers a sum similar to that offered by the city in the event that information supplied to the F.B.I., possibly by someone outside of New York, should result in Lepke's capture. It was pointed out also that the Federal offer does not double the price on the fugitive's head."

As a matter of policy, the FBI has never offered standard rewards for the capture of a top fugitive or any other fugitive.

#### Charge

Buchalter was only too happy to make a deal to surrender to Federal authorities on the basis of assurance that he would not be turned over to local authorities. (p. 260)

#### Facts

It was conclusively stated, and acknowledged by Buchalter, after he had surrendered to the Director, that there had never been any deal and that there were no such assurances made by the FBI. Upon completion of Federal prosecution, Buchalter was turned over to New York authorities.

#### h. Organized Crime

#### Background

Operations of organized crime in the four decades since the end of World War I have been intimately associated with gambling (jurisdiction of the local police), bootlegging (jurisdiction of the Alcohol and Tobacco Tax Division), narcotics (jurisdiction of the Bureau of Narcotics), counterfeiting (jurisdiction of the Secret Service), and interstate prostitution (jurisdiction of the FBI).

### Context

Cook devotes Part 8 of his article to the theory that the FBI has "scored its greatest successes over the stumble-bums of crime," but with rare exceptions--he admits to Al Capone and Lepke Buchalter--he maintains that it "did not curb the dark emperors of the underworld."

### Facts

As is obvious from the background above, most of the activities of organized crime do not even fall within the investigative jurisdiction of the FBI. The question arises as to what the FBI has done with regard to those that do. The following are typical examples:

(1) In August, 1937, FBI Agents simultaneously raided houses of prostitution in Atlantic City, New Jersey; Philadelphia, Pennsylvania; and Wilmington, Delaware, rounding up a total of 170 defendants, material witnesses, and possible material witnesses. As a result of these raids, 43 individuals were convicted and received aggregate sentences totaling 241 years, 4 months, and 14 days, in addition to probationary sentences of 69 years. While preparing for the raids, FBI Agents had determined that Enoch L. "Nocky" Johnson, a well-known political boss in Atlantic City, was associated with several individuals involved in the case. As a result of the information thus developed, Johnson was prosecuted by the Bureau of Internal Revenue in 1941 on charges of income tax evasion, and received a sentence of ten years upon conviction.

(2) During 1936, an extensive investigation was conducted by the FBI of a white slave ring operating in Connecticut, and 39 persons were arrested and sentenced to 104 years, 9 months, and 20 days, in addition to fines aggregating \$72,500. Also imposed were suspended sentences of 1 year, 6 months, and 8 days, and probationary sentences of 12 years. An indictment against a 40th defendant was dismissed inasmuch as he was already serving a four-year prison term for violation of the White Slave Traffic Act.

(3) An investigation in Miami, Florida, in 1940 of Earl Charles Youst, who had an extensive criminal record, resulted in the conviction of Youst and three other individuals for violation of the White Slave Traffic Act. One of the sidelights of the conviction was the disbarment of one of the defendants, Fred Pine, a notorious Miami criminal lawyer and former county solicitor.

As a result of these widespread raids involving political figures and top criminals in their respective areas, organized crime began to shift emphasis to gambling, bootlegging, narcotics, and counterfeiting. When organized criminals periodically blundered into the FBI's field, they were quickly rounded up, as in a 1947 raid where Salvatore Imperiale and 43 other men were arrested and convicted in New York City for highjacking trucks. The defendants received total jail sentences of 169 years; 72 years in suspended sentences; 143 years in probationary sentences; and \$6,000 in fines under the Theft from Interstate Shipment statutes.

Other allegations by Cook on organized crime include:

#### Charge

The FBI was "specifically given jurisdiction in cases in which a person crossed a state line to avoid prosecution or to avoid giving testimony--a sweeping provision that, it would seem, would cover a multitude of cases and would embrace, if the effort were made, most of the major activities of the Syndicate." (p. 259)

#### Facts

For a so-called "top crime reporter," Cook here shows an appalling lack of even a fundamental knowledge concerning the Unlawful Flight statute. This statute is not "a sweeping provision," but, on the contrary, is strictly proscribed and limited to a



specific handful of crimes--murder, kidnaping, burglary, robbery, mayhem, rape, assault with a dangerous weapon, arson, and extortion--set forth verbatim in the statute itself. As for "most of the major activities of the Syndicate," these do not fall within the investigative jurisdiction of the FBI. In his address to the 52nd Annual Meeting of the National Association of Attorneys General at Chicago, Illinois, on June 11, 1958, United States Attorney General William P. Rogers said, "...less than ten per cent of all crimes violate federal law." Of that ten per cent, those most favored by the so-called "Syndicate"--narcotics, bootlegging, and counterfeiting--are within the jurisdiction of Federal agencies other than the FBI. A fourth major crime preferred by the organized mobsters--gambling--is strictly a local offense and must be handled on that level.

#### Charge

In following out his theme that the FBI made its reputation combatting the "stumble-bums of crime," Cook quotes from Milton Mayer's article in the September, 1935, issue of Forum magazine. In this article, Mayer charges that "kidnaping is largely an amateur sport," for "it does not attract the kind of man who peddles illicit goods or murders fellow hoodlums for hire under the tolerant eye of both police and public." Professional criminals "avoid it because it is a one-shot racket...the life of a "kidnaping gang" has never been shown to be more than one kidnaping." (p. 259)

#### Facts

Such a theory, to quote from Cook himself, is "patently false and ridiculous." A number of kidnaping gangs were repeaters--one spirited off at least five victims in two years--but to accuse the Barker-Karpis gang of being amateurs is stretching the point, even for Cook. In seven months they staged two major kidnappings-- [redacted] and [redacted] --both in St. Paul, Minnesota, and the loot from those crimes came to \$300,000, a reasonably profitable haul for a gang of "amateurs." As for the allegation that they were not the type to kill other

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hoodlums, the Barker-Karpis mobsters were involved in five gangland slayings and one attempt in less than three years. One of their members, Fred Goetz, who was himself on the receiving end of a shotgun blast in 1934, had earlier been reported as one of the machine gunners in the notorious St. Valentine's Day massacre of 1929 in Chicago.

#### Charge

Cook says, "The famous kidnapers were not the big names of the underworld." Hauptmann was an "impoverished carpenter;" Angelo John LaMarca was an "impecunious laborer." (p. 259)

#### Facts

It is true that Hauptmann and LaMarca were not well-known members of the underworld until their infamous crimes. But who, in his right mind, would maintain that anyone except Dillinger--and he for only a short time--outshone Karpis and the Barker family at garnering publicity during the 1930's.

#### Charge

"...If a Bugsy Siegel is to be bumped off in California, a Willie Moretti in New Jersey, an Albert Anastasia in New York City, it is a cinch that the triggerman is not a home-grown product, but an imported expert." Once the bloody deed is done, the murderer is speedily away, not across one state line but many. "No clearer opportunity could be offered--under the provision of crossing state lines either to escape prosecution or to avoid giving testimony--for the vigorous entry by the FBI into the difficult field of big-time criminal prosecutions..." (p. 259)

### Facts

Again Cook is the victim of his own ignorance in not familiarizing himself with the provisions of the Unlawful Flight statute. Murder, as such, is not an offense within the investigative jurisdiction of the FBI. No matter how flagrant the offense, or aggravated the circumstances, the FBI cannot enter the field of local murder until the local police (1) identify the murderer, (2) obtain a warrant for his arrest, (3) present facts to show the murderer has fled interstate, and (4) agree to extradite and prosecute the murderer upon his apprehension. If Cook and the local authorities want the FBI to apprehend the killers of Siegel, Moretti, and Anastasia, they will first have to identify the culprits and then meet the remaining three conditions.

### Charge

The names of Costello, Adonis, Luciano, Anastasia do not even appear in The FBI Story. "Yet, the national ramifications of the Syndicate would seem to have offered some ideal opportunities for an alert and eager federal law enforcement agency to lay some major demons by the heels...." (p. 260)

### Facts

Why single out Costello and Adonis? Why not Allen Smiley and William Bioff? Smiley, a close associate and business manager of the late Benjamin "Bugsy" Siegel, was arrested by FBI Agents in November, 1947, charged with falsely claiming citizenship. He was convicted and sentenced to a year in prison and fined \$3,000, which was subsequently reduced by legal action to \$1,000. Investigation by FBI Agents in 1939 determined that Bioff had been active in extorting over \$500,000 from motion-picture producers. Upon his conviction in the Southern District of New York for violation of the Anti-Racketeering statute, he was sentenced to ten years in jail and fined \$20,000.

Additional investigation resulted in the convictions for anti-racketeering of numerous other labor racketeers and hoodlums connected with the old Capone gang. Nicholas Circella received eight years and \$10,000 fine; Louis Campagna, ten years and \$10,000; Philip D'Andrea, ten years and \$10,000; Paul DeLucia, ten years and \$10,000; Charles Gioe, ten years and \$10,000; and Louis Kaufman, seven years and \$10,000. Frank Nitto committed suicide after his indictment was announced on March 19, 1943.

Why pick out Anastasia and not Edward Clippinger? Clippinger, who reportedly owned and operated the largest house of prostitution on the entire west coast and had netted \$100,000 profit in his eight months of operations at Las Vegas, Nevada, was arrested by FBI Agents under the White Slave Traffic Act. After conviction, he was sentenced to three years in prison in July, 1954. As for Luciano himself, he had no doubts about the FBI. Interviewed in Italy, where he had been deported, he said, "The FBI? Are you kidding? Those guys know what they're doing. That's one bunch you can't get ~~to~~--nobody can. They're the best cops and they're level." (Confidential, January, 1958, p. 62)

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#### Charge

Cook makes a great issue over the fact that a Teaneck, New Jersey, check casher named [redacted] regularly took gambling proceeds--often \$90,000 in a single morning--from New Jersey to New York City without the FBI's taking any steps to prevent his activities. (p. 261)

#### Facts

Inasmuch as gambling is a local offense, regardless of what smoke screens Cook attempts to throw up, it would not matter in the least whether

[ ] hauled as much as \$900,000 a day from as far away as Las Vegas. The FBI is bound by jurisdictional limitations. Any effort to overstep this boundary would be the opening wedge toward establishing the national police force to which Cook is so strongly opposed.

### Charge

On September 29, 1935, J. Edgar Hoover announced, in the words of The New York Times, "a national campaign against racketeers comparable to the successful drive against perpetrators of violent crimes." On June 11, 1958, Attorney General William P. Rogers declared in a speech in Chicago that "crime was costing the country \$20 billion annually; organized rings, he said (telling the public nothing that hadn't been reported in eight-column headlines for years), were reaping a harvest by maintaining remote control over lucrative rackets." The Department of Justice, however, was going to set matters straight; it had undertaken a long-range campaign aimed at wiping out syndicates and jailing top racketeers.

"In the context of these two statements, separated by more than twenty years, it seems fair to ask: What happened in the interim? The inevitable answer has to be: Not much." (p. 258)

### Facts

Cook uses material from both the Director's announcement and Attorney General Rogers' speech out of context. Both the Director and Mr. Rogers specifically restricted the scope of their announced campaigns against racketeers to violations of Federal jurisdiction. Mr. Rogers also pointed out that crime is basically a local problem and that less than ten per cent of all crimes violate Federal laws.

## 2. Security Matters

### a. Jencks Decision

#### Background

Clinton Jencks, an officer of the International Union of Mine, Mill and Smelter Workers, was convicted in January, 1954, for falsely filing a noncommunist affidavit in violation of the Taft-Hartley Law. The United States Supreme Court reversed Jencks' conviction in an opinion on June 3, 1957, basing its decision, in part, on the fact that the trial judge in the District Court did not make available to the defense written reports of FBI informants who had testified against Jencks at the trial. The Court held that the Government must choose between dismissal of prosecution and allowing the defendant to inspect reports relevant to the testimony of a trial witness. The opinion did not decide, however, the manner in which a determination of relevancy would be made. Lower courts, in applying the Jencks decision, differed widely concerning the means by which the confidential reports of Government witnesses should be admitted into evidence, vindicating the fears of those who felt there was need for procedural clarification of the Supreme Court's ruling. Members of Congress, responsible jurists, and newspaper editorials across the Nation called for legislative action to cure the inadequacy.

#### Context

The Jencks case is used in an effort to conjure up an image of the FBI as a national police force which is so powerful that it can dictate to the Congress and the courts. The Director is charged with having deliberately maneuvered to force Congress to curb the Supreme Court.

### Charge

The Director was "chiefly instrumental in kicking up a public storm" against the Supreme Court which "carried the imputation that the Court had become a positive menace." (p. 222)

### Facts

A brief chronology of events illustrates the falsity of this charge. The Jencks decision was handed down by the Supreme Court on June 3, 1957. In a strong dissenting opinion, Associate Justice Tom C. Clark, who, as a former Attorney General, had practical experience in these matters, warned that Congressional action might be necessary to change the Court's decision. Justice Clark wrote: "Unless the Congress changes the rule announced by the Court today, those intelligence agencies of our Government engaged in law enforcement may as well close up shop for the Court has opened their files to the criminal and thus afforded him a Roman holiday for rummaging through confidential information as well as vital national secrets...."

On the next day, June 4, 1957, several members of both Houses of Congress added that legislation was necessary to meet this "serious problem," and a proposed bill was introduced that day in the House of Representatives. On June 24, 1957, another bill was introduced in the Senate and two similar measures were introduced in the House of Representatives. The Senate bill eventually became the Jencks law.

The announcement of the decision on June 3, 1957, had stirred widespread press coverage and editorial comment. From then until September 2, 1957, the day the Jencks law was passed, more than 100 newspapers, representing a cross section of public opinion, printed editorials critical of the decision. Many of these editorials urged Congress to enact remedial legislation. On June 6, 1957, three days after the Jencks decision was announced, the Commissioner of the Bureau of Narcotics, Harry J. Anslinger, described it as

a "fatal body blow" to the prosecution of narcotics peddlers.

On June 28, 1957, Attorney General Herbert Brownell, Jr., accompanied by other officials of the Department, testified before a Subcommittee of the Senate Committee on the Judiciary. He cited several examples in which Federal District Courts throughout the country had shown wide variance in their interpretations and applications of the Jencks decision. Some courts had interpreted the decision by ruling that the entire FBI investigative file had to be made available to the defense. The Attorney General pointed out that the Government had been unable to proceed in some prosecutions. On that appearance, the Attorney General spoke for the Department of Justice and stressed its acceptance of the principle of the Jencks decision. However, he cited the immediate necessity for legislation to clarify the practical procedures to be followed in applying the principle of the decision. "Otherwise," he cautioned, "serious harm will be done to Federal Law enforcement."

The Director had become concerned over the effect some lower court applications of the Jencks decision had, and would have, on FBI investigations. He expressed this concern in a report to the Attorney General on July 28, 1957, one month after the Attorney General appeared before the Senate Subcommittee.

If any one factor can be singled out as chiefly instrumental in kicking up a public storm over the Jencks decision, it would undoubtedly be the application of the Jencks decision by the lower courts. The Evening Sun of Baltimore, Maryland, on July 3, 1957, put it succinctly with this editorial comment, "The hubbub over the Jencks case, recently decided by the Supreme Court, arises not so much from what the Court said as from the way the rule has been interpreted in the lower courts." (Supreme Court of the United States, No. 23, October Term 1956, June 3, 1957)



### Charge

*The Director promulgated a myth about the Jencks decision, creating the impression that "the Court had given Communists carte blanche to force revelation of the FBI's most closely guarded secrets." (pp. 222,223)*

### Facts

*No myth was promulgated. This is amply illustrated by some examples from the testimony of Attorney General Brownell before the Subcommittee of the Senate Committee on the Judiciary on June 28, 1957. Some courts began immediately to interpret the Jencks decision as requiring production of investigative files according to the wholesale disclosure envisioned in the dissent of Associate Justice Clark. In a narcotics trial in Pittsburgh, the judge ordered production of a report covering the complete investigation of the case. The case was dismissed when the Government failed to produce. In an antitrust case in Pennsylvania, the Government was forced to dispense with material testimony of FBI Agents because the court ruled that, if they testified, their entire reports would be given to the defense. A criminal income tax case being tried in Georgia was dismissed because the Government declined to produce unauthenticated summaries of interviews with witnesses. In dismissing the case, the court indicated that a pending defense motion for production of the entire investigative report was well taken. In Rhode Island, a court took action involving an interpretation of the Jencks decision which threatened to result in the freeing of a convicted tax evader and four convicted kidnapers.*

### Charge

*The Director demanded legislation to protect FBI files from disclosure in a letter to Congressman Joseph W. Martin, Jr., then House minority leader. (p. 223)*

### Facts

Speaking for the Department of Justice, Attorney General Brownell, in his appearance before the Subcommittee of the Senate Committee on the Judiciary on June 28, 1957, stated that he had accepted the principle of the Jencks decision, but cited the immediate need for legislation to clarify the practical procedures to be followed in applying the decision. The Director wrote to Congressman Martin on August 10, 1957, calling attention to the necessity for the legislation which the Attorney General had recommended, and which had already been approved by the House Committee on the Judiciary. In his letter, the Director pointed out the handicaps some court applications of the Jencks decision had imposed on every Federal investigative agency. In no sense, can this letter be construed as an effort to dictate to Congress.

### Charge

Capping his campaign to curb the Supreme Court, "Hoover went before the American Legion in its 39th annual convention in Atlantic City on September 19, 1957, and charged that the campaign to throw open the FBI files was the work of 'a hard core of propagandists.'" (p. 223)

### Facts

This speech was delivered by the Director exactly 17 days after the Jencks bill was signed into law and could not have affected Congressional action.

### Charge

Newspapers which criticized the Jencks decision or supported clarifying legislation were "...rabid sections of the ultra-conservative press..." (p. 223)

## Facts

This is a highly inaccurate statement which is typical of the reckless labeling indulged in throughout the article. The newspapers which editorially criticized the Jencks decision and/or supported Congressional action to clarify it number more than a hundred and represent a cross section of newspapers across the Nation. These included: Atlanta Constitution, Cincinnati Enquirer, Commercial Appeal (Memphis), Chicago American, Detroit Times, Kansas City Star, Los Angeles Evening Herald Express, Philadelphia Inquirer, San Francisco Call-Bulletin, St. Louis Globe Democrat, and The Evening Star (Washington, D. C.)

## b. Hiss Case

### Background

In August, 1948, Whittaker Chambers, a self-confessed Soviet espionage agent, appeared before the House Committee on Un-American Activities (HCUA) and charged Alger Hiss with membership in an underground group of the Communist Party. Hiss, a former State Department employee, was then president of the Carnegie Endowment for International Peace. Hiss denied the charges under oath before the HCUA and challenged Chambers to repeat them where they would not be privileged against suit for libel. Chambers repeated his charges on a radio program in August, 1948, and a month later, Hiss filed a civil suit for libel. During a pretrial hearing on the libel suit, Chambers produced documents, consisting of summaries and/or excerpts from State Department papers, to support a new charge against Hiss--espionage. In December, 1948, Chambers delivered to investigators of the HCUA the famous "pumpkin papers." On the basis of this additional disclosure, [redacted] a Federal Grand Jury, which indicted Hiss on two counts of perjury. Hiss was tried twice. The first trial ended with a hung jury and the second with his conviction in January, 1950. He was sentenced to five years.

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### Context

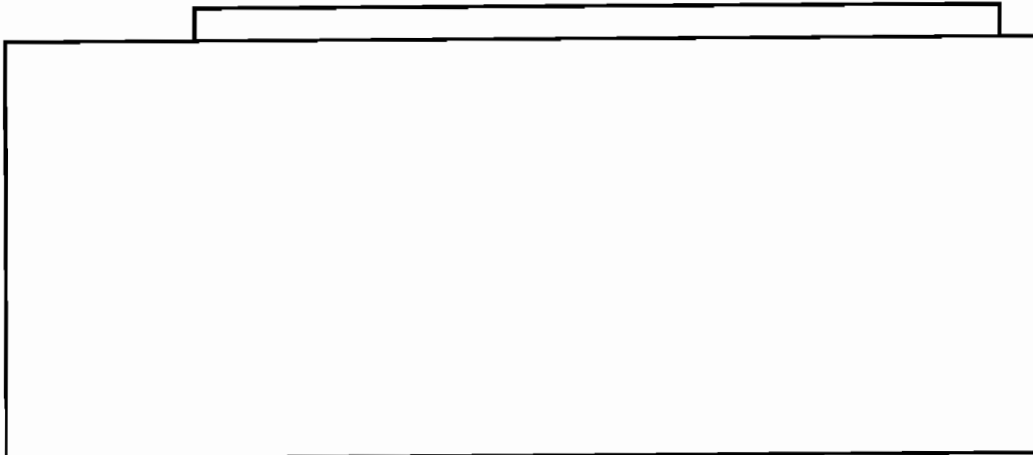
The Hiss case is used in an attempt to show close rapport between the FBI and the House Committee on Un-American Activities. It is an effort to raise the implication that the FBI wields power and influence over Congress by "leaking" information to Congressional investigators.

### Charge

The House Committee was fed the first tip on the Alger Hiss case out of the FBI's supposedly secret files. "The Hiss case, which the FBI had failed to break by normal and accepted investigative methods, was funneled through an FBI tip to Senator Karl Mundt..." (pp. 224, 278)

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### Facts



In March, 1953, former Assistant to the Director L. B. Nichols talked to Senator Mundt regarding a United Press item which reported that Senator J. William Fulbright had said, "Mundt was

quoted in the Salt Lake City Tribune last November 22 as saying the FBI often tips Congressional committees to cases where it has evidence of Communism but lacks material to justify an indictment." Senator Mundt was incensed over Fulbright's statement. He said that he could not recall ever having made such a statement because, to his knowledge, he had never heard of the FBI's tipping off a Congressional committee to cases where it had evidence but lacked material to justify an indictment.

In another discussion concerning this Fulbright allegation, Senator Mundt told Mr. Nichols in April, 1954, that he had made a point of the FBI's cooperation with the HCUA, for example, citing the fact that when the "pumpkin papers" were found, the Bureau developed the film in order to safeguard the evidence. Mr. Nichols observed, "This (development of film), of course, we did do and did legitimately. There is certainly nothing we could be criticized for on this."

#### c. Christian Front Case

##### Background

In January, 1940, FBI Agents arrested William Gerald Bishop and 16 other members of the Christian Front Sports Club in Brooklyn, New York, for violation of the Seditious Conspiracy statute. Evidence had been collected that the group had discussed plans to spread a reign of terror and attack Government installations; and that, in furtherance of their plans, they had obtained firearms and ammunition, made bombs, engaged in firearms practice, and conducted military drills. Indicted in February, 1940, by the Federal Grand Jury, Eastern District of New York, for conspiracy to overthrow the Government of the United States, the majority of the defendants were later acquitted, and one committed suicide. The indictments against the remaining defendants were dismissed.

Context

This case is cited by Cook in support of his broad charges that the FBI is dominated by a police-state mentality and uses police-state methods.

Charge

The FBI failed to distinguish between "wild talk" and "overt violence." (p. 266)

Facts

Title 18, Section 6, United States Code, under which the defendants were arrested, has two elements which taken together comprise seditious conspiracy: (1) the conspiring, and (2) the overt act in furtherance of the conspiracy. The so-called "wild talk" of the defendants was in reality "the conspiring," for it was their repeated discussion of plans to attack Federal installations and to create a reign of terror to supplant constituted authority with their own rule. They moved overtly in furtherance of the conspiracy by actually collecting firearms and ammunition, making bombs, engaging in firearms practice, and conducting military maneuvers.

Charge

The FBI informant, [redacted] was an agent provocateur who entrapped the defendants by using FBI funds to buy ammunition for them. (p. 266)

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Facts

[redacted]  
[redacted]  
[redacted]

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Charge

The FBI used third-degree methods to obtain statements from the defendants; one Agent testified that there had been uninterrupted questioning for 14 hours. (p. 266)

Facts

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A review of the trial transcript by the New York Office disclosed an inquiry about defendant Bishop's being questioned continuously for 14 hours. [redacted] and other Agents denied this allegation in testimony. With regard to all the defendants, a memorandum for the Attorney General, dated May 1, 1940, prepared by [redacted] Assistant Director Harold Nathan, and P. E. Forworth, Special Agent in Charge of the New York Office, reveals that the defendants were questioned only in such continuity as to permit them to be in the best possible mental and physical condition and were allowed to eat, rest, and even sleep when they desired. Significantly, this memorandum reflects that William Gerald Bishop, himself the ringleader of the arrested group, told [redacted] "...as far as I am concerned, as far as I have seen, no duress or any kind of force has been used in extracting my statement from me." Bishop added, "There has been no coercion whatsoever, none whatsoever."

d. Amerasia

Background

While reading a copy of the magazine Amerasia, an employee of the Office of Strategic Services (OSS) noted an article which appeared to have been based on an OSS report.

Following a conference between representatives of OSS and the Navy and State Departments, the FBI was asked to investigate. FBI investigation resulted in the arrest in June, 1945, of [redacted] and [redacted]

[redacted] of Amerasia:  
[redacted] and [redacted]

They were apprehended on the basis of a complaint charging conspiracy to commit espionage. However, the Government decided to prosecute [redacted] and [redacted] on a charge of conspiracy to embezzle and purloin documents which were the property of the United States Government. [redacted] entered a plea of guilty; [redacted] entered a plea of nolo contendere. The Department entered a nolle prosequi against [redacted]

### Context

The Amerasia case is used to prove that the FBI uses police-state methods, such as influencing a decision to prosecute a case and assuring success of the prosecution. The outcome of the case, predicated upon the decision of the Government to proceed against the defendants with a different charge, is offered as proof by Cook that the whole incident was a magnified spy scare.

### Charge

After initial investigation, in a discussion within the Justice Department late in May, 1945, the FBI "laid its cards on the table and recommended action."  
(p. 269)

### Facts

This is a false statement for the FBI never recommended, orally or in writing, any action in its discussion with Justice Department officials regarding the prosecution of this case in May, 1945.



This is borne out by the testimony of former Assistant Attorney General James M. McInerney in testimony before the Tydings Committee on May 4, 1950, when he said "...I want it known that the decision was that of the Criminal Division, and that of the Attorney General, and as you know, the FBI expresses no view as to prosecution, they take the position that they are evidence and information collectors, and that they have no official view with respect to what is done with the case."

#### Charge

Assistant Secretary of State Julius Holmes had conferred first with his superior, Acting Secretary of State Joseph C. Grew, who had asked for FBI assurance on two points: Was the evidence airtight? Would prosecution be successful? The FBI answered "Yes" on both counts. (p. 269)

#### Facts

This is false. The FBI did not state that this was an "air-tight" case or express an opinion regarding the outcome of prosecution to Grew or Holmes. In May, 1950, a statement of Grew relative to this issue was introduced before the Senate Foreign Relations Subcommittee investigating loyalty of State Department employees. According to this statement, Grew, when Acting Secretary of State, asked Holmes two questions: (1) Did the FBI have adequate evidence to support the charge; and (2) did Holmes believe that prosecution would almost certainly result in conviction? Grew stated further that when Holmes answered both of these questions in the affirmative, he, Grew, authorized the arrests. In testimony in connection with these hearings, Holmes recalled seeking guidance from the Department of Justice.

#### Charge

The case lacked the "essential ingredient of a bona fide spy case: a courier conveying the secret information." Amerasia, "while it had exposed glaring leaks in key federal departments, was never, from a legal standpoint, a valid spy case." (pp. 269, 270)

### Facts

There was not a determination by the courts as to whether any of the persons convicted in connection with this case were or were not guilty of an espionage violation. The Department authorized complaints charging the subjects with conspiracy to violate Section 31, Subsections (c) and (d) of the Espionage Act, Title 50, United States Code.

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#### e. Elizabeth Bentley

### Background

Elizabeth Bentley approached the New Haven Office of the FBI on August 23, 1945, under a pretext. On November 7, 1945, during her third interview with FBI Agents, she disclosed her connections with a Soviet espionage apparatus. Her disclosures figured importantly in establishing the existence of a network of sources within the United States Government who had furnished information to Soviet agents.

### Context

The discussion of Bentley in The Nation article is distorted in an effort to attack what is termed the use by the FBI of the "secret informer system." Bentley's credibility is attacked, and the so-called "discrepancies" in her testimony are used in an attempt to show that the Director and the FBI relied imprudently on the tale of an informant, thereby contributing to the "widespread hysteria over treason and subversion." The dilemma posed

in the article is that, if Bentley's revelations were true, then the FBI is equally at fault for its failure to have been aware of such activities.

#### Charge

When Bentley first brought her information to the attention of the FBI, events moved in an "almost incredibly dilatory fashion." (p. 270)

#### Facts

In Bentley's initial approach to the FBI August 23, 1945, she did not furnish an account of her espionage activities. The Nation article conveys the impression that the FBI was in possession of her full story after her contact with the New Haven Office, when, in fact, it was not until her third interview at the New York Office on November 7, 1945, that she made full disclosures of her knowledge of and involvement in the Soviet espionage network.

#### Charge

There were discrepancies in the testimony of Elizabeth Bentley. (p. 273)

#### Facts

Excerpts from Bentley's testimony and statements were quoted out of context in an effort to discredit her. Cook obviously relies heavily on the William Henry Taylor brief, a 107-page document filed in connection with Taylor's hearing before the International Employees Loyalty Board in 1955. Taylor had been identified by Bentley as one of her espionage contacts. His brief attempted to discredit her through analysis of her prior testimony.

Cook sets up a straw man by indicating that Bentley stated she had learned in advance the specific date of D-Day, 1944. In actuality, Bentley disclosed to Agents on November 30, 1945, that only the approximate date had been determined by William Ullman. Obviously, the specific date, a last-minute decision, would have been impossible to know beforehand. The fact remains that Soviet espionage learned one of our most carefully guarded secrets well in advance of the time our Nation planned to let the Soviet Union know the date for the anticipated invasion of Western Europe.

Cook attempts to make Bentley's testimony that the espionage ring secured information on the explosive, RDX, appear ludicrous. He cites information from an encyclopedia that RDX was discovered in 1899, that its explosive properties were recognized about 1920, and that it was used on a large scale during World War II by all the major powers. Actually, Bentley's testimony about the Soviet interest in RDX was corroborated by Alfred Dean Slack and Harry Gold, convicted espionage agents. Knowledge of the existence of RDX did not affect the fact that knowledge of its manufacturing process was extremely valuable to the Soviets.

In The Nation, it is indicated that Miss Bentley erred in confusing the Doolittle raid on Tokyo with later B-29 raids which took place in 1944, a wholly immaterial point which was later clarified by her statement that she had never received information concerning the earlier Doolittle raid.

In no instance does the Cook article credit Bentley with a misstatement which could be interpreted to impugn her reliability with regard to the identification of those involved in the espionage ring. The discrepancies cited are minor irrelevancies.

### Charge

The Director appeared before the Senate Internal Security Subcommittee and "placed his entire personal prestige and the prestige of the FBI on the line in one of the most complete endorsements ever given by a top police executive to a prize informer." (p. 271)

### Facts

The Director's statement before the Senate Subcommittee on November 17, 1953, cannot be twisted to imply an imprudent endorsement of Miss Bentley as the article would indicate. His words echoed an awareness of the grave importance of the Bentley testimony and of the requirement that her disclosures be subject to most careful analysis and evaluation. Mr. Hoover's exact words, quoted below, constitute in part a restatement of long-standing FBI policy--to check and corroborate evidence, to insure its validity to whatever extent investigative resources will permit, before submitting it as a basis for an accusation. The Director said,

"ALL information furnished by Miss Bentley, which was susceptible to check, has proven to be correct. She had been subjected to the most searching of cross-examinations; her testimony has been evaluated by juries and reviewed by the courts and has been found to be accurate."

(Interlocking Subversion in Government Departments, Part 16, Hearings before Senate Internal Security Subcommittee of Committee on the Judiciary, United States Senate, 83rd Congress, 1st Session, p. 1145)

### Charge

Either Miss Bentley's "sensational spy-ring disclosures were concocted in large measure of fantasy or they are completely valid--in which case, with all the

wide-open opportunities for discovery, the FBI would seem to have been a most incompetent watchdog." Either the FBI "gave us perfect wartime security as it so long maintained, or it gave us such imperfect security that a clearly-labeled Golos could continue masterminding the theft of secrets...." (pp. 271,273)

#### Facts

These false and deceptive alternatives serve neither to discredit Bentley nor to establish any major failure of FBI responsibility. Both Bentley and her espionage superior, Jacob Golos, had previously received FBI attention in connection with the investigation of Gaik Ovakimian, principal Soviet agent in the Armand Labis Feldman espionage case. In 1941, as a result of Golos' contacts with Ovakimian, the FBI had begun to investigate both Golos and Bentley and their activities in connection with World Tourists, Incorporated, and the United States Service and Shipping Corporation. Ovakimian, a Golos contact, was arrested for violation of the Foreign Agents Registration Act and was allowed by the Department of State to depart from the country under a Soviet claim of diplomatic status in July, 1941.

#### Charge

Of 37 Government employees named by Bentley as being involved in espionage, only two, Alger Hiss and William Remington, were tried and convicted. Were the other 35 wrongly accused of espionage or did they get away through "sieves in our protective screen?" (p. 273)

#### Facts

The remaining 35 were neither wrongly accused nor did they get away. Again the reader is offered the choice of two false answers. Alger Hiss and William Remington were, in fact, the only two of the original

37 named by Bentley who were convicted, but others of that same group, including Nathan Silvermaster and William Ullman, are subjects of investigation. The inability to develop a corroborating witness to Bentley's testimony has been an obstacle to trial of these cases. Investigation of these subjects has been vigorous and exhaustive and has provided considerable valuable intelligence. Because there is no statute of limitations in cases of wartime espionage, there is still some possibility of prosecution.

#### f. Rosenberg Case

##### Background

In March, 1951, Julius and Ethel Rosenberg were convicted in United States District Court for the Southern District of New York of committing espionage against the United States during time of war. The evidence against them clearly proved their guilt in obtaining and transmitting to agents of the Soviet Union vital secrets about the atomic bomb. The Rosenbergs were sentenced to death and were executed on June 19, 1953, after numerous judicial appeals and applications for Presidential clemency. Communist propaganda turned this case into an international cause celebre.

##### Context

The Rosenberg case is used by Cook in support of his contention that the FBI's police-state mentality has fomented hysteria over the spurious menace of communism. By stressing recent Soviet scientific achievements, Cook tries to create the impression that the Soviet Union did not have to resort to espionage to obtain our atomic secrets. After thus minimizing the crime of the Rosenbergs, he then claims that they were sentenced to death because the widespread hysteria, fomented by the FBI, made a calm, deliberate, and objective evaluation of the seriousness of their crime impossible.

### Charge

Since the FBI searched fingerprint records for a reported 269,303 Manhattan Engineer District applicants, it must share responsibility for screening the personnel on the atomic bomb developments. In February, 1945, the FBI identified Julius Rosenberg as a communist, questioned him, and had him fired from his Army Signal Corps job. David Greenglass, brother-in-law of Rosenberg, had a past association with "a young communist organization." Rosenberg and Greenglass might have been linked, through their family ties, in time to preserve our most vital secret, since the drawings of the atom bomb parts were first transmitted by Greenglass in May, 1945. (p. 274)

### Facts

The FBI did not have Julius Rosenberg dismissed from his job with the Army Signal Corps. When information regarding Rosenberg's membership in the Communist Party was developed in 1944, this information was furnished to the United States Army. Rosenberg was afforded a hearing by the Army, after which his employment was terminated in 1945. By specific agreement with the FBI, the War Department assumed exclusive responsibility for protective activities in connection with the Manhattan Engineer District. Under this agreement, the FBI was precluded from conducting investigations of Manhattan Engineer District personnel unless requested to do so by Military Intelligence. In addition, the FBI fingerprint records were searched at the request of Military Intelligence.

Since Greenglass was connected with the Manhattan Engineer District, Military Intelligence was responsible for developing information regarding his background and any potential influence his relatives might have upon him. Membership in the Communist Party, USA, or relationship with Party members does not



necessarily presuppose involvement in Soviet espionage. There is also a big difference between a search of the FBI's fingerprint records and an active security investigation of Manhattan Engineer District personnel. The latter was the sole responsibility of Military Intelligence.

#### Charge

Harry Gold, an American espionage contact of British atomic scientist Klaus Fuchs, was among those identified as an active communist by Elizabeth Bentley. Gold had actually been questioned in 1947 and released. When questioned after Fuchs' confession in 1950, he finally admitted his participation in Soviet espionage activity. (p. 274)

#### Facts

This is completely false, for Harry Gold was not identified by Elizabeth Bentley as an active communist. Bentley did not know Gold. Gold was identified through an FBI investigation based on Bentley's disclosures. He was interviewed by FBI Agents in May, 1947, concerning his own activities and those of his contact, Abraham Brothman. [REDACTED]

b3

[REDACTED] Gold had confessed his espionage activity to the FBI before he was positively identified by Fuchs as his American contact.

#### Charge

It is doubtful whether the Rosenbergs "committed a crime of earth-shaking magnitude" or "one that justified the supreme penalty." (p. 274)

### Facts

The only doubts which have been raised in anyone's mind regarding the guilt of the Rosenbergs or the magnitude of their crime are the doubts which have been fostered by the communist propaganda campaign on behalf of the Rosenbergs. Prior to their execution in June, 1953, the Rosenbergs' case was reviewed at least 16 times by the United States District Court, seven appeals were made to the Circuit Court of Appeals, seven petitions were made to the United States Supreme Court, and two applications were made to the President of the United States for clemency. The Rosenbergs had the full benefit of a trial by jury and, after most extensive consideration of their many appeals, the courts expressed no doubt concerning either their guilt or the penalty imposed.

### g. Judith Coplon

#### Background

Judith Coplon, an employee in the Department of Justice, was identified by a Bureau source as a Soviet agent. In early 1949, Coplon was observed meeting clandestinely with Valentine Gubitchev in New York City. Gubitchev, a Soviet national, was employed by the United Nations Secretariat. While under surveillance on March 4, 1949, Coplon made contact with Gubitchev in New York City. The Attorney General had ordered that she be arrested at this time. During the course of the search incidental to her arrest, Coplon was found to have in her purse extracts taken from FBI reports and other documents which were clearly intended for transmittal to Gubitchev. Coplon was convicted of espionage in Washington, D. C. in June, 1949, and conspiracy to commit espionage in New York City in March, 1950. On appeal, both convictions were remanded to the respective District Courts. She was not retried.

### Context

Pursuing his broad charge that the FBI uses police-state methods, Cook tries to use the Coplon case to show that the FBI practiced deliberate deceit on the wire-tapping issue, conducted an illegal arrest, search, and seizure, and thereby ruined its case.

### Charge

Coplon's arrest was illegal, for FBI Agents had not bothered to equip themselves with a warrant. (p. 275)

### Facts

Coplon's arrest without a warrant was specifically ordered by the Department of Justice. Four Federal courts subsequently had the question of the legality of the arrest squarely before them. Two Federal trial judges, one in Washington, D. C., and the other in New York City, upheld the arrest as valid. Reviewing Coplon's New York conviction, the United States Court of Appeals for the Second Circuit, on December 5, 1950, held the arrest invalid. In the face of this decision, the United States Court of Appeals for the District of Columbia reviewed Coplon's Washington conviction, and on the same facts of arrest held that it was legal.

At the time of Coplon's arrest on March 4, 1949, Section 3052, Title 18, United States Code, provided that FBI Agents could make arrests without a warrant for felonies where the Agent had reasonable grounds to believe that the person was guilty of a felony and there was a likelihood of escape before a warrant could be obtained. The one court which held the arrest invalid--the United States Court of Appeals for the Second Circuit--did so on an interpretation of the statute. It found that there was ample reason to suppose that there was a criminal conspiracy in progress before the eyes of the Agents, but it held that likelihood of escape was also a specific condition of the statute.

The Court itself admitted in its opinion that this interpretation actually gave an FBI Agent less power of arrest, under some circumstances, than an ordinary citizen.

The subsequent opinion of the United States Court of Appeals for the District of Columbia commented on this decision of the New York court and said:

"We cannot suppose that Congress intended...to make a Bureau Agent powerless to act when a felony is committed before his eyes, although it is universally held or provided that a private person may arrest a felon observed in the commission of his crime. Yet that purpose must be attributed to Congress in revising the 1934 statute, if the arrest here is to be held unlawful."

(United States Court of Appeals, District of Columbia, No. 10,339, June 1, 1951)

#### Charge

Congress later decided that the FBI should not be bothered with such legal technicalities as warrants in espionage cases, passing legislation specifically exempting them from the normal statutory procedures. (p. 276)

#### Facts

The legislative history of this provision clearly reveals that it was intended to overcome the restrictive interpretation which the United States Court of Appeals for the Second Circuit, in its decision in the Coplom case, placed on the existing

authorization for FBI arrests without a warrant. A statement accompanying the legislation noted that the court had held the statutory authorization was "not cumulative"--that is, it did not give Agents added power of arrest, and that the effect of the court's interpretation was that Agents had less power of arrest than private persons. It was noted in this statement that Congress had found that United States Marshals and their deputies had broader powers of arrest than FBI Agents, and it specifically stated that the amendment was being recommended to give FBI Agents the same powers of arrest.

#### Charge

FBI Agents conducted an illegal search and seizure when they arrested Coplon. (p. 276)

#### Facts

Since the search and seizure were made incidental to the arrest, their legality depended directly upon the validity of the arrest. The decision by the United States Court of Appeals for the Second Circuit on December 5, 1950, in holding the arrest invalid under an interpretation of the statute, necessarily held the search and seizure illegal. However, in the face of that decision, on June 1, 1951, the United States Court of Appeals for the District of Columbia, reviewing Coplon's Washington conviction, held on the same facts that the arrest was legal and, therefore, the search and seizure were legal.

#### Charge

The FBI in Coplon's trial in Washington, D. C., in 1949 practiced deliberate deceit on the court by a wire-tap "cover-up." (pp. 275-276)

### Facts

Prior to the Washington trial, Departmental authorities, after consultation with Bureau representatives, instructed that an Agent who had not participated in the installation or actual monitoring of a wire tap could answer a question as to whether he knew of the existence of a wire tap by stating, "I do not know." Therefore, the Agents who testified during this case testified truthfully that they had no personal knowledge of wire taps.

The Government's case was not based on proof obtained by wire tapping or on leads from wire tapping. Coplon was convicted on June 30, 1949, and entered an appeal to the United States District Court for the District of Columbia on the grounds that her arrest, the search, and the seizure of the material in her possession were illegal, not on any wire-tap issue. While Coplon's appeal was pending in Washington, the Government moved to prosecute her under the conspiracy indictment in New York. Prolonged pretrial hearings were conducted to determine the scope and extent of wire-tapping activities alleged to have been used in the case. On this occasion, the Agents were cross-examined on more than their personal knowledge. The Agents were required to testify from their total knowledge, including hearsay and belief. On the basis of the information developed about wire tapping in this New York pretrial hearing, Coplon moved in Washington for a new trial. Her appeal on the Washington conviction was stayed, pending the outcome of her motion for a new trial. When the District Court denied the motion, she appealed it, and the United States Court of Appeals for the District of Columbia handed down decisions on both appeals--upholding the validity of the arrest, search and seizure, but remanding the case for a hearing on a new trial.

Significantly, the Court ruled that the District Court had not erred in denying Coplon's motion

for a new trial insofar as it was based on the theory that the Government's proof was obtained by wire tapping or arose from leads obtained by wire tapping. The Court remanded the case for a hearing on whether or not there had been wire tapping of conversations between Coplon and her attorney before and during her Washington trial.

### Charge

Faced with exposure in the New York trial, the FBI had destroyed the wire-tap recordings, acting on instructions in a secret memorandum from Washington. In arguments on the New York appeal, Judge Learned Hand took issue with the Federal prosecutor regarding the destruction of wire-tap records and said, "Could there have been anything more wanton and deliberate than was shown by the evidence?" (p. 276)

### Facts

Cook, himself, answers this charge in his next paragraph when he wrote: "Judge Hand later wrote the decision...he softened his stand a bit on the wire tapping, saying that the destruction of the recordings wasn't too vital, since copies had been kept in Washington..."

Cook implies that the FBI had destroyed the wire-tap recordings on instructions in the memorandum of H. B. Fletcher to D. M. Ladd, dated November 7, 1949. The New York trial brought out the fact that it was the administrative practice of the New York Office to destroy all recordings at the end of 30 to 60 days, since copies of the information were retained in Washington.

Judge Hand, in his decision on appeal, wrote that "it could scarcely have been with a sinister purpose" that the FBI destroyed from time to time the original records of the "taps." In addition, Judge Hand said there "was an adequate motive for the destruction in the natural desire of every office to rid itself of useless litter the substance of which had been preserved..." (U.S. Court of Appeals, Second Circuit, No. 86, December 5, 1950).

### Charge

Judge Hand wrote that Coplon's "guilt is plain," but held, in effect, that the FBI had ruined its own case. (p. 276)

### Facts

Judge Hand did not hold, in effect, that the FBI had destroyed its own case. This is an unwarranted conclusion by Cook. The Court's opinion interpreted the statute authorizing FBI arrests of felons without a warrant as requiring that there also be a likelihood of escape. The Court found that there was insufficient evidence on this point in the trial record. On the wire-tap issue, the Court found that the trial judge had stopped Coplon's inquiry into the scope and extent of wire tapping too soon, thus preventing disclosure of whether the Government's evidence was from wire taps. Judge Hand spells this point out clearly in his own words:

"...the conviction must be reversed; but we will not dismiss the indictment, for the guilt is plain, and it is possible on another trial that there may be more evidence of the likelihood of escape; that the prosecution may decide to divulge the contents of the 'taps'; and that the examination as to the 'confidential informant' may go far enough to show that he was not a 'wiretapper.'" (United States Court of Appeals, Second Circuit, No. 86, December 5, 1950)



h. Louis F. Budenz

Background

When the initial interviews of Budenz by Bureau Agents took place in December, 1945, at South Bend, Indiana, his remarks were recorded, unknown to him, due to the absence of a stenographer. This matter did not become an issue until the United States District Court of Appeals in January, 1958, ordered the Government to produce documentary material concerning portions of Budenz's testimony which constituted "statements" under the Jencks law. This order, stemming from the decision of the Supreme Court in the case of Jencks v. United States, 353 U.S. 657, arose as a result of a petition by the Communist Party, USA, for the production of certain FBI reports. Upon the request of the Department for information concerning the initial interviews conducted with Budenz, the Department was immediately advised of the mechanical recording of this interview and of the availability of the discs.

Context

In support of his major charge that the FBI is dominated by a police-state mentality, Cook uses this Budenz matter to attempt to show that the FBI, despite outward appearances of adherence to lofty principles and dedication to high ideals, practices deliberate deceit and its word is not to be trusted.

Charge

Throughout the entire earlier course of the action, Justice Department lawyers had "repeatedly" told the courts that "no recordings" had been made in 1945 of talks between the FBI and Louis Budenz. "Instead of supplying the affidavits (requested by the Department), the FBI acknowledged the truth--that, unknown to Budenz, it had

taken recordings of the talks." A Justice Department attorney "assured the court that this sudden admission (by the FBI regarding the existence of these recordings) came as a complete surprise to him and...to all other government attorneys working on the case." (p. 276)

### Facts

Prior to the Jencks decision, only the statements or informant reports prepared by the witness were at issue when the defendant, for the purpose of impeaching the credibility of the witness, moved for their inspection. Therefore, a recording made without the witness's knowledge prior to the Jencks decision--the Budenz recordings were made about twelve years before--was strictly an investigative technique. It was the product of the investigator, not the witness. Until the Jencks decision, the Department had not inquired if such recordings had been made, and the Bureau was under no obligation to volunteer the fact that they existed. Departmental Attorneys had, in fact, assured the Subversive Activities Control Board (SACB) that no recordings had been made.

On June 3, 1957, the Supreme Court decision in the Jencks case held that the defendant was entitled to inspect all of the witness's reports in the Government's possession, "written and, when orally made, as recorded by the F.B.I., touching the events and activities as to which they testified at the trial..." In moving to meet the Court order of January 9, 1958, which compelled production of documents under this broader rule stemming from the Jencks decision and subsequent Jencks law, the Department requested the Bureau, by letter dated January 28, 1958, to determine the identities of the Agents who interviewed Budenz relative to specific portions of his testimony and to have these Agents furnish affidavits as to the circumstances and details of interviews with Budenz.

By memorandum dated January 29, 1958, the FBI advised the Department that the original interviews with Budenz in South Bend, Indiana, in December, 1945, during which the specific items of interest had been touched upon, had, without Budenz's knowledge and in the absence of an FBI stenographer, been recorded and the discs were still in existence. The FBI had no reason to make known the existence of these records previously, and there was no hesitation in making them available when inquiry was made concerning any such records of Budenz's interviews.

#### Charge

The FBI and Justice Department deceived the court and "it will take a very great rationalization indeed to reconcile the wire-tap cover-ups in the Coplon and Budenz cases with the image of the FBI as an organization whose principles are so lofty and whose dedication to ideals is so steadfast that its word on anything and everything must under no circumstances be questioned." (p. 276)

#### Facts

Cook is in error in describing the Budenz matter as involving a wiretap. It was a recording of an interview as reflected above. There was no deceit and there was no "cover-up" in either the Coplon or the Budenz matters. Representatives of the FBI gave truthful answers to the inquiries addressed to them in both instances.

B. Related Issues and Items

1. Birth of FBI

Background

The Bureau of Investigation was created in July, 1908, as the investigative arm of the Department of Justice.

Context

Cook uses the circumstances surrounding the creation of the Bureau of Investigation to show that there has always been strong opposition to the FBI.

Charge

The Bureau of Investigation was originally established by executive fiat in the face of strong Congressional opposition. (pp. 225, 226)

Facts

The need for an investigative agency in the Department of Justice was recognized as early as 1871, when Congress approved a \$50,000 appropriation for the "detection and prosecution" of Federal crimes, and the Attorney General appointed the Department's first "special agent" to handle investigations. As the years passed, however, the Justice Department--and other Federal Agencies--adopted the practice of "borrowing" agents from the Treasury Department's Secret Service. This arrangement was unsatisfactory, since the "borrowed" agents, while technically assigned to the Department of Justice, were still subordinate to the Secretary of the Treasury.

In the early years of Theodore Roosevelt's administration, the Attorney General used Secret Service agents to investigate Federal land frauds. A United States Senator and Congressman, both from Oregon, were among those Federal officials who were convicted of conspiracy to defraud. The fact that Members of

Congress had been investigated and convicted increased the friction between Congress and the White House, and the Administration's use of Secret Service agents came under attack. Stories were circulated that the President was using detectives to spy into the private lives of Members of Congress to develop information for use as a political club. In this atmosphere of hostility, Attorney General Charles J. Bonaparte called the attention of Congress to the lack of an investigative agency in the Department of Justice in 1907. His plea was pointedly ignored by Congress, which, in the same year, forbade all other Federal Agencies to use the services of Secret Service agents by amending the Sundry Civil Appropriation Act.

President Roosevelt, regarding this amendment as a crippling blow to Federal law enforcement, had tried unsuccessfully to have it killed. After its passage, he directed Attorney General Bonaparte to organize an investigative service within the Department of Justice, which would report and be responsible only to the Attorney General. On July 26, 1908, Bonaparte issued the order creating such an investigative agency. Shortly after President Taft succeeded President Roosevelt on March 4, 1909, the new Attorney General, George W. Wickersham, gave the Department's new investigative service a secure place and the dignity of a title--the Bureau of Investigation.

## 2. Black Tom Island Explosion

### Background

The Black Tom Island explosion occurred at munition loading docks in New York Harbor on July 30, 1916. On this occasion 2,000,000 pounds of dynamite blew up, which jarred Manhattan and Jersey City, New Jersey, doing \$40,000,000 in damage. This catastrophe resulted in four deaths and was attributed to German saboteurs.

### Context

This is another attempt on the part of Cook to prove that the present-day FBI is merely a modern version of the old, inefficient, pre-Hoover Bureau of Investigation.

### Charge

The first major test of the new detective force came in the trying days of World War I. The Bureau was badly undermanned and poorly trained to meet the threat posed by skilled German spies and saboteurs. The result was that, both before and after America's actual involvement in the war, enemy agents had a veritable field day. Their major coup came on July 30, 1916, when some two million pounds of dynamite were touched off on Black Tom Island in New York harbor, a transfer point for the shipment of munitions to the Allies in Europe. (p. 226)

### Facts

The Bureau of 1959 is a far cry from the Bureau of 1916. Evidence of this--in contrast to the Black Tom explosion of World War I--is the fact that not one act of enemy-inspired sabotage was committed in the United States during World War II. In 1916, when the Black Tom explosion occurred, Mr. Hoover was not even an employee of the Department of Justice.

### 3. World War I Slacker Raids

#### Background

In 1918, the Bureau of Investigation cooperated with the Army and draft boards in locating draft dodgers.

#### Context

Cook uses the background of the draft-dodger raids of World War I to prove that even in its earliest years the Bureau of Investigation violated civil rights.

#### Charge

The Bureau of Investigation used the "dragnet procedure," in violation of civil rights, in rounding up draft dodgers in 1918, particularly in New York City and Atlantic City. (p. 226)

## Facts

The raid in Atlantic City, New Jersey, took place on August 16, 1918, and Department of Justice Agents, members of the American Protective League,\* and local police participated. The mayor of Atlantic City helped in drawing up the plans for the raid. Prior to the event, notices had been posted throughout the city cautioning all men to have their draft cards in their possession at all times.

The major roundup of draft dodgers was conducted by the Bureau of Investigation on September 3-5, 1918, in New York City, Jersey City, and Newark. Prior to the event, newspapers were requested to carry notices cautioning all men between the ages of 21 and 35 to carry their draft cards with them at all times, as required by law. However, no public notice was given that a roundup would take place. Division Superintendent Charles DeWoody was in charge of the operation. The raiders included 35 Special Agents of the Bureau of Investigation; 2,000 members of the American Protective League; 1,350 soldiers and National Guardsmen; 1,000 sailors; and several hundred policemen, largely concentrated in New York City. During this period, some 50,000 men who were not in possession of their draft cards were taken to roped-off areas and, in many cases, were not permitted to seek assistance in establishing their innocence. Attorney General Thomas W. Gregory deplored the use of extralegal methods in uncovering draft dodgers, but personally assumed full responsibility for them.

## 4. General Intelligence Division

### Background

The General Intelligence Division (GID) was a non-investigative branch of the United States Department of Justice,

\*The American Protective League (APL) was a volunteer organization formed early in 1917 with the sanction of the Department of Justice and the Bureau of Investigation to help the Bureau in its national defense work. As it grew in size, the APL began to violate civil rights and gave the impression that its members were Federal officers. While its membership eventually reached 250,000, most of its members were inactive. It was disbanded on February 1, 1919.

and from August, 1919, to August, 1921, was headed by Mr. Hoover, as a special assistant to the Attorney General.

### Context

In support of his major charge that a Government-inspired radical menace was created in 1919-1920, Cook discusses the Director's connection with the GID and his role in the "Palmer Raids," the arrests of so-called "radicals" under the administration of Attorney General A. Mitchell Palmer. This is an attempt to use the Director's association with the Department of Justice as the link between the old, controversial Bureau of Investigation and the present-day FBI. The implication, made evident later in the article, is that the FBI today, despite outward appearances of improvement, is still characterized by what Cook alludes to as the "police-state mentality" of the GID and the Bureau of Investigation.

### Charge

Mr. Hoover "had been attached to the bureau since he joined the department in 1917, and he had headed the anti-radical division, renamed GID, from the moment it was created..." (pp. 233-234)

### Facts

The General Intelligence Division was a non-investigative branch of the Department of Justice and was completely separate from the Bureau of Investigation, which was the investigative branch of the Department of Justice. As head of the General Intelligence Division, Mr. Hoover was an employee of the Department, not the Bureau. He did not become an employee of the Bureau of Investigation until August 22, 1921, when he was appointed Assistant Director of the Bureau. At that time, he naturally relinquished his position as a special assistant to the Attorney General in charge of the General Intelligence Division.



### Charge

Cook quotes from Lowenthal's The Federal Bureau of Investigation to the effect that Agents of the Bureau of Investigation, under Mr. Hoover's instructions, heard

" '...gossip about what people were said to have said or were suspected of having done... The bureau's decision was that everything received by the special agents and informers should be reported to headquarters; the agents were specifically directed to send whatever reached them...' " (p. 230)

### Facts

Omitted, significantly, from both Cook's and Lowenthal's accounts was an additional point of extreme importance which had been set forth in the original source material from which they quote. Incorporated in the instructions issued by the Bureau of Investigation was the admonition that inasmuch as gossip or hearsay evidence "is of no value in making technical proof, agents are hereby instructed to trace every piece of information to its source."

### Charge

The Director played an active and dominant role in the "Palmer Raids." (pp. 230, 233-235)

### Facts

The Director, at the time of the "Palmer Raids" on January 2, 1920, was a special assistant to the Attorney General, A. Mitchell Palmer. The Bureau of Investigation was headed by William J. Flynn. Mr. Hoover's position at that time charged him with the responsibility of prosecuting deportation

cases. The hearings of the Senate Committee which investigated the charges of illegal practices of the Department of Justice with regard to the "Palmer Raids" fill nearly 800 printed pages. Yet, at no place in the hearings does the Senate Committee put responsibility for the raids upon the Director or criticize him. If Harlan F. Stone, who publicly stated in 1919 that he deplored the "Palmer Raids," had felt Mr. Hoover was responsible for them, he would not have appointed Mr. Hoover as Director of the Bureau of Investigation. Morris Katzeff, one of the lawyers defending the persons rounded up for deportation in the "Palmer Raids," wrote to Mr. Hoover in 1940, stating he knew the Director had nothing to do with the abuses committed in the "Palmer Raids," adding that he felt it was his duty, from personal knowledge, to say a word in defense of Mr. Hoover, who was unjustly accused of wrongdoing.

#### Charge

"Hoover's division...was engaged in building up a fantastically-bloated picture of a great radical menace." He established a card index in the GID to keep track of radicals. GID's first report on the system showed 100,000 radicals; a year later there were more than 450,000. (p. 231)

#### Facts

The index cards represented many items other than individuals. The Attorney General's annual report for 1920 states: "In order that the information...upon the ultra-radical movements might be readily accessible...there has been established as a part of this division a card-index system, numbering over 200,000 cards, giving detailed data not only upon individual agitators...but also upon organizations, associations, societies, publications, and special conditions existing in certain localities."

The 1921 report of the Attorney General adds: "In conjunction with the General Intelligence Division there are maintained index cards numbering approximately 450,000 covering both activities and subjects and, in addition, there have been collected many exhibits, photographs, and descriptions..."

### Charge

Cook questions "just how accurate was the GID's enumerating of 60,000 radical leaders, its indexing of more than 450,000 names as names of radicals?" In Masters of Deceit, Hoover himself says that the Communist Party membership by 1922 had reached 12,400. Now, of course there were other radical groups in this period and "one might expect, however, that the really dangerous elements" ultimately would have found their way to communism. "Even adopting the Communist thesis, as Hoover likes to do, that there are ten sympathizers for every actual party member, the 1922 core of Communist-indoctrinated could have been multiplied to only 124,000." (p. 231)

### Facts

Although Cook's multiplication is good, his addition is off. After arriving at the hypothetical figure of 124,000 "Communist-indoctrinated" radicals, he should have added the original 12,400 upon which his figure is based. This would have given him a total figure of 136,400. But even that would have been meaningless, because it was shown previously that the figure 450,000, which Cook bandies about so freely, applies not merely to individuals, but also to organizations, societies, publications, and various other miscellaneous items. Moreover, he is wrong in assuming that all "dangerous" radicals eventually drift toward the communist banner. Even today, some of the most dedicated enemies of the Communist Party in the world are the followers of Leon Trotsky, the members of the Socialist Workers Party. So that, too, invalidates his already discredited figures.

### Charge

The Senate Subcommittee on the Judiciary (the Walsh Committee) reported that some 10,000 persons had been arrested in the so-called "Palmer Raids." The watered-down version of 2,500 in Don Whitehead's book, The FBI Story, is part of a vast, over-all scheme to prove that "Hoover was completely blameless." (p. 233)

### Facts

Whitehead's figures, which actually pertain only to the raid of January 2, 1920, are misinterpreted as applying to all of the arrests in the "Palmer Raids."

### Charge

The Senate hearings (Walsh Committee) developed evidence on several points that all dovetail into a picture of Hoover as pressing always for extreme action in the "Palmer Raid" prosecutions, as insisting on high bail for the defendants, and as arguing that it should not be necessary for detectives in the deportation proceedings to prove that the defendants actually knew and subscribed to the views of the organizations of which they were members. (p. 234)

### Facts

The Director was taking a legal position on the knowledge of the defendants. He was merely citing a particular provision of the act of October 16, 1918, which so specified. Regarding the question of bail, it should be recalled that, at the time, Mr. Hoover was a special assistant to the Attorney General, charged with the responsibility of prosecuting the deportation cases. As such, it was his duty to press for high bail in the cases of those subjects who were considered dangerous or likely to escape.

b7D

5. [REDACTED]

### Background

[REDACTED] was utilized as a confidential informant by the Bureau of Investigation from October to November, 1919. [REDACTED]

[REDACTED] gradually broke off regular contact with the communist leaders.

### Context

Cook uses this incident to discredit the use of confidential informants by the FBI.

### Charge

[ ] was a "master of intrigue" while working for the GID. The Bureau eventually found that [ ] had, as Lowenthal reports, let communist leaders review his reports to the Bureau and furnished information on the Bureau's penetration of the Communist Party to the leaders. The Bureau called his reports "worthless" and discharged him. (p. 230 )

b7D

### Facts

Actually, [ ] was utilized by the Bureau of Investigation, not by the GID. In applying for the position of confidential employee, [ ] claimed associations with several communist leaders. He was employed only on a probationary basis to determine whether or not he could furnish information on the communist movement. He furnished no information of value, however, and withdrew from the service in November, 1919. Although he did tell a communist leader that the Party secretary was an informant for the Bureau, [ ] later admitted to the same leader that the information was a lie.

## 6. Wheeler-Daugherty Controversy

### Background

Following revelations that Secretary of the Interior Albert B. Fall--for a consideration of \$135,000--had permitted two oil men to dip into the naval oil reserves at the Teapot Dome field in Wyoming during the early 1920's, an outcry was raised in Congress. Senator Burton K. Wheeler of Montana introduced a resolution in March, 1924, establishing a committee to examine the conduct of Attorney General Harry M. Daugherty in the matter. Daugherty's supporters retaliated with

a campaign accusing Wheeler of being a "radical," and the Department of Justice commenced an investigation of charges that the Senator had used his office to get oil and gas leases for a Montana oil speculator. The eventual victory, however, went to Wheeler, who was acquitted by a Federal jury in Great Falls, Montana, the following year, whereas Daugherty did not even survive the rest of the month as Attorney General.

#### Context

Cook cites these "old scandals" as part of his effort to link the present-day FBI, through the Director, to the old Bureau of Investigation.

#### Charge

Gaston B. Means "came striding into the Bureau as a full-fledged agent on October 28, 1921." (p. 236)

#### Facts

Means' letter of appointment, dated October 28, 1921, reflects that he was "appointed temporarily, for a period of ninety days, as a Special Employee (not Agent) of the Bureau of Investigation, Department of Justice."

#### Charge

Cook claims that the Brookhart-Wheeler committee put on the witness stand a former Bureau of Investigation Agent, H. L. Scaife, who testified that he had been "blocked" in his efforts to investigate alleged frauds against the Government in the aircraft industry. Just as he was getting into the heart of the frauds case, Cook claims, Scaife was sidetracked by instructions to begin an investigation of the bread situation. "Scaife explained that he had dug up evidence indicating that the government had been bilked of about \$25 million on bread contracts, and 'I got instructions to go ahead with the bread investigation.' " When asked who had issued him these instructions, Scaife replied, " 'I think it was Mr. Hoover, of Mr. Burns's office.' " (p. 237)

### Facts

As is quite obvious from a study of the committee hearings, the \$25,000,000 mentioned applies to the aircraft contracts, and not the bread contracts. Scaife describes Gaston B. Means as his assistant in the aircraft fraud cases, and Means, himself, before the same committee testified that the investigations had been taken away from the Department of Justice by the War Department. Therefore, it matters little, or not at all, who actually issued the instructions to Scaife to discontinue his efforts. Also, it should be noted that Scaife's character is not absolutely lily-white. After leaving the Bureau in 1922, he was hired for an investigative venture by Means, whom Cook describes as a former German agent, a suspected murderer, and an alleged forger. According to Means' testimony, Scaife was paid \$1,000 a month plus expenses for his assistance.

### Charge

"The powers of the Bureau of Investigation were being turned against Congress itself." Senators' offices "were being raided, their mail opened and searched, their servants questioned." Outraged, the Senators summoned Means to the witness stand. According to Cook, "Means told all," and his testimony "was substantiated in vital respects by former agents who had taken part in the official spying." Cook then goes on to state that "the picture that the Senators pieced together" was later described in speeches. Senator Thomas H. Heflin of Alabama put it: " 'These detectives went through the office of the Senator from Arkansas and... the office of the Senator from Wisconsin (the senior Bob La Follette); and God only knows how many other offices.' " (pp. 237, 238)

### Facts

To begin with, writing some three-and-a-half decades later, Cook is obviously confusing 1922 with 1924. Gaston B. Means, who admitted investigating the Senators from Arkansas and Wisconsin, testified that he had not been employed by the

Bureau of Investigation or the Department since 1922. Cook would have it appear that the incidents referred to were occurring in connection with--and at the same time as--the committee hearings. More important, Means' testimony makes it patently clear that these activities were not those of the Bureau of Investigation. Regarding Senator Caraway of Arkansas, Means testified that the investigation conducted on Caraway had been done by an organization established by Means after he left the Bureau. La Follette was investigated in April, 1922, two months after Means testified he had been suspended by the Bureau and one month before he had been reinstated. Moreover, Means explained clearly that his investigations of these individuals had been at the request of Jess Smith, a close friend of President Harding. His instructions from Smith, Means testified, were to "tell Billy (Burns) nothing."

As in relating the dates, Cook also recounts a false sequence in describing the background. He says that, outraged at finding their offices raided, their mail opened, and their servants questioned, the Senators called on Means. Actually, none of this information came out until after the Senators had talked to Means, who Cook admits would never win an "award for veracity." The assertion that "his testimony was substantiated in vital respects by former agents who had taken part in the official spying" is not borne out by the printed records of the testimony before the committee. The only conclusion possible is that Cook was befuddled by the references to the testimony in Lowenthal's book. Not wanting to discredit his tribute by quoting from Means, Lowenthal repeatedly made allegations that "a former bureau agent" said that. The printed record shows that all of his quotes are from Means. Not knowing this, Cook was apparently confused by the various statements into believing that they came from different sources.

"The picture that the Senators pieced together" was, at best, a distorted one. Senator Heflin, whom Cook quotes, was not even a member of the committee or else he would have known that Means had testified on several different occasions that his investigations had not gone through "the office of the Senator from Arkansas." As means testified, "We went at Senator Caraway at a different angle." Nor does the record bear out Cook's claim that the Senators were particularly



"outraged." Of the 187 pages devoted to Means' testimony, less than 12 deal with the topic of prying into senatorial privacy. This does not have the ring of an indignant committee summoning Means to "tell all." It is obvious that they were much more interested in other topics.

### Charge

W. O. Duckstein, private secretary to Edward M. McLean, then publisher of The Washington Post, testified that two men who identified themselves as Bureau Agents had told him, in advance of the event, that they were out to " 'frame' " Wheeler.

### Facts

Here Cook indulges in an outright lie. The printed testimony of witnesses before the committee reflects that Duckstein identified these men as "special investigators" for Hiram Todd, a special assistant to the Attorney General. When asked if they were connected with the Department of Justice, he replied, "They were not." (Daugherty, Vol. III, pp. 2504, 2506)

### Charge

Senator Wheeler later came to respect and admire Attorney General Stone, but it is obvious that he never quite forgave Mr. Hoover. (p. 240)

### Facts

Ignoring the point that before someone can be forgiven he must first err, the fact remains that Cook could scarcely be more incorrect. In November, 1953, former Senator Wheeler called Mr. Hoover to congratulate him upon his recent appearance before the Jenner Committee and to state that he did not agree with Lowenthal and his book about the FBI. This should come as a great shock to Cook, most of whose article is based on Lowenthal's efforts.

## 7. Railroad Shopmen's Strike of 1922

### Background

The railroad shopmen's strike of 1922 involved a nationwide work stoppage by employees of the railroad maintenance and repair shops who were protesting a wage cut. Injunctions against the strikers were secured by the railroad companies from Federal judges throughout the country.

### Context

In support of his general, over-all allegation that the FBI deals in "police-state" tactics, Cook charges that the Bureau of Investigation got its start as an "anti-labor" force during the course of investigating Federal violations arising out of this strike.

### Charges

The Harding Administration "threw the agents of the bureau into a labor-spying, labor-suppression campaign...." (p.236)

### Facts

During the post-World War I era, it was the policy of the Department of Justice to call on the Bureau of Investigation, whenever there were national strikes affecting key industries, to keep Government officials fully informed of the activities surrounding the strikes and to report on any acts of violence arising in connection therewith. In line with this policy, the Bureau of Investigation conducted extensive investigation during the railroad shopmen's strike on orders of the Attorney General.

Mob violence, shootings, murder, and sabotage occurred during the strike and, with few exceptions, state and local authorities were unable to cope with the situation.

As a result, some 5,800 deputy United States Marshals were appointed during the strike to enforce Federal Court injunctions. They were also used to check violence and disorder, to keep the mails moving, and to perform other police duties. The Attorney General instructed these marshals to remain neutral in the strike, and those who disregarded the instructions were discharged. On July 20, 1922, William J. Burns, then Director of the Bureau of Investigation, notified the New York Office that United States Marshals could deputize any Special Agent as a special deputy marshal when it was deemed advisable to arm the Agents and provide them the protection enjoyed by a deputy marshal.

During the course of this strike, the activities of over 2,000 individuals involved in the strike were investigated, resulting in the arrest of more than 1,200 for violations of Federal Court injunctions.

In this respect, it is interesting to note that on January 12, 1959, Guy L. Brown, Grand Chief Engineer of the Brotherhood of Locomotive Engineers, conferred upon Mr. Hoover a certificate of honorary membership in the Brotherhood. At the time of the presentation, Mr. Brown lauded Mr. Hoover for "the magnificent work you have done and are continuing to do in defending the civil liberties and protecting the rights of the average citizen and the laboring man of this country." Commenting upon the Director's role in America today, Mr. Brown said that "by helping thwart efforts of those who would destroy our Government...you have aided not only the individual working man but also the entire labor movement." (The Washington Daily News, January 13, 1959, p. 17)

#### 8. Police Cooperation

##### Background

As one of the leading Federal investigative agencies in the United States, the FBI must constantly deal with other law enforcement agencies on a local, state, and national level. As the Director has pointed out on a number of occasions, however, cooperation must be a "two-way street" if it is to work successfully.

### Context

In Part 6 of his article, Cook trains some of his biggest verbal guns on this point and accuses the FBI of refusing to cooperate with other law enforcement agencies unless "they have the information and he (Hoover) doesn't."

### Charge

"In December, 1937, for example, a federal agent went out alone to spring a trap on an extortionist near Independence, Missouri, but he was badly riddled by a shotgun blast instead. The local sheriff was understandably annoyed when he learned of the incident only by reading about it in a newspaper, and he protested to Hoover that 'a dangerous killer' had been allowed to escape because G-men weren't cooperating with local authorities...." (p. 248)

### Facts

Although Cook does not identify his case, it is believed that he is here referring to Special Agent Henry A. Snow, who was shot by Woodrow Wilson Price on December 6, 1937, while participating in an extortion plant. It is not true, however, that Snow was alone at the time of the shooting. He was accompanied by an entire squad of fellow Agents. As for the objection of the sheriff that local authorities had not been notified, Mr. Hoover pointed out in a memorandum dated December 8, 1937, that the sheriff was not invited to take part in the plant because he was part of a political machine in Kansas City and was unreliable.

### Charge

In the same year (1937), the police chief in Topeka was similarly unhappy after the Topeka Post Office had been shot up when G-men tried to spring a trap there. "Local police hadn't known anything about it until the two New York gunmen... had shot their way out of the trap, killing an agent in the process...." (p. 248)

### Facts

Again, Cook fails to specify names and dates, but from the description given, there is little doubt that he is referring to Special Agent Wimberly W. Baker, who was mortally wounded by bank robbers Glen Applegate and Robert Suhay in the Topeka, Kansas, Post Office on April 16, 1937. Cook is wrong, however, regarding the local police, for Special Agent in Charge Brantley interviewed both the chief of police and the sheriff at Topeka, and they emphatically denied having made any critical statements concerning the FBI to the newspapers. Local police had been advised immediately when the subjects were placed in that area. Prior to that, they had not been alerted, because the Topeka Post Office was just one of several places in the country being watched on the chance the subjects would show up.

### Charge

Applegate and Suhay were captured by a Nebraska sheriff and his brother "without heroics, without fireworks." (p. 248)

### Facts

The sheriff and his deputy obviously did a good job in apprehending the two gunmen, but as law enforcement officers occasionally are, they were beneficiaries of highly fortuitous circumstances. First, Suhay had been wounded in fleeing Topeka, and secondly, the bandits had blundered into a dead end just as they were about to shoot it out, and decided that discretion was the better part of valor.

### Charge

Cook, at one point, criticizes FBI Agents "for not having taken into their confidence the local police who were familiar with the section." (p. 247)

### Facts

A typical example of the police departments which FBI Agents did not dare take "into their confidence" during the early 1930's was the Hot Springs, Arkansas, Police Department. In June, 1935, Alvin Karpis moved to Hot Springs, Arkansas, and was in daily contact with Grace Goldstein who operated several houses of prostitution in the area. The Hot Springs Police Department at the time was operating in a very lax manner under the leadership of Joseph Wakelin, the Chief of Police. Trusted associates of Chief Wakelin were Herbert "Dutch" Akers, the Chief of Detectives, and Cecil Brock, Lieutenant in Charge of the Identification Division, all of whom had received information as early as April, 1934, that Karpis and his associates were badly wanted by the Government. Investigation reflected that members of the Hot Springs Police Department were aware of the identity of Alvin Karpis and were visitors at a house of prostitution operated by Grace Goldstein. Chief of Detectives "Dutch" Akers was observed on one occasion in direct conversation with Karpis, and Chief Wakelin had almost nightly clandestine meetings with Grace Goldstein during the time Karpis was residing in Hot Springs. Investigation also established that Chief Wakelin loaned Grace Goldstein a set of his auto license plates, knowing that she would place them on her car and take a trip to Texas with Karpis. The owner and the caretaker of one of the residences where Karpis resided in Hot Springs admitted that on one occasion Karpis informed them that "Dutch" Akers was a good friend of his.

In view of the evidence gathered, Akers, Brock, Wakelin, Goldstein, and four other persons from the Hot Springs area were arrested and charged with conspiracy to violate the Federal Harboring Statute. On October 18, 1938, the above individuals were tried in the United States District Court at Little Rock, Arkansas. Verdicts of guilty were returned against Wakelin, Akers, Brock, and Goldstein on October 29, 1938. Verdicts of not guilty were directed by the court against three of the four other defendants. The fourth unnamed defendant had previously entered a plea of guilty and was sentenced to a Federal penitentiary. Wakelin, Akers, Brock, and Goldstein were sentenced to two years in a Federal penitentiary.

### Charge

In referring to the Little Bohemia raid of April, 1934, Cook says that the Agents involved "acted on a well-established principle of Hoover's not to take local police into his confidence." (p. 246)

### Facts

This allegation has already been refuted at great length under the case write-up on John Dillinger himself. It would be well, however, at this point to requote an editorial which appeared in The Milwaukee Journal of April 26, 1934, referring to this incident:

"To telephone around, in a woodland country, gathering up a local posse is to pass the word of a coming raid pretty generally to everybody.

"To try and function, quickly and effectively, through our various county sheriff's departments, is to rely on scattered and unknit forces, not really trained in police technique.

"It is logical that federal agents should prefer to work quietly and without local help in such a situation as they faced near Rhinelanders."

The foregoing charges, however, represent the purely negative aspect of the situation. On the positive side, the FBI has long cooperated with local law enforcement agencies at all levels of government, and through the years this relationship has come to be a highly treasured example of reciprocity to all parties concerned. Among the types of assistance and cooperation rendered to other agencies by the FBI are the following:

a. Information from Informants

During the 1958 fiscal year, information received from FBI confidential informants and disseminated to other law enforcement agencies resulted in 1,695 arrests and in the recovery of \$911,508 in stolen and contraband merchandise and valuables by other authorities.

b. Fugitive Felon Act

The Fugitive Felon Act, enacted in 1934, enables local authorities to request FBI assistance in the location and apprehension of fugitives who have fled interstate to avoid prosecution or confinement for certain specified serious crimes within the purview of the act. The violators of this statute include many of the most vicious criminals in the United States. In April, 1957, one of these fugitives, an armed murderer, ambushed and killed an FBI Agent in Connecticut. During the 1958 fiscal year, 1,021 fugitives were located under the Fugitive Felon Act; for the first four months of the 1959 fiscal year, 559 fugitives have been located under this statute.

An outstanding example of the emphasis given the Fugitive Felon Act is set forth in the FBI's Ten Most Wanted Fugitives Program. Since this program was first inaugurated in cooperation with the International News Service on March 14, 1950, 110 fugitives have appeared on the list. Of this 110, 82 were sought under the Fugitive Felon Act; and of the 82, 72 have been located to date.

c. Identification Services

The FBI Identification Division was established in July, 1924, with congressional approval. Its fingerprint files are international in scope and serve as a central repository for all fingerprint data. Since the inception of the Identification Division, its services have been made available to all law enforcement organizations free of charge. These fingerprint records have been of great value in the location of criminal fugitives and the identification of unknown dead. The Identification Division has assisted local agencies in identifying suicides, victims of aircraft and steamship disasters, drownings, fires, and other violent deaths. This is an invaluable service and has become one of the principal civil functions performed by the Identification Division for local agencies.



As of January 1, 1959, there were 150,994,086 fingerprints on file in the Identification Division; 33,383,771 criminal fingerprints and 117,550,315 civil fingerprints. There were over 13,000 agencies contributing fingerprints to the Identification Division. These contributors represent nearly 20,000 fingerprints received daily for processing.

As of November 1, 1958, 89,789 fugitive wanted notices were on file with the Identification Division. These notices serve a very useful purpose in bringing about the apprehension of many badly wanted criminals for law enforcement agencies throughout the country. During the fiscal year of 1958, 15,534 fugitives were identified as a result of this posting method.

d. Laboratory Services

The FBI Laboratory was established in November, 1932. Its expansion and development have kept pace with the rapid progress of law enforcement. It is recognized as the finest crime-detection laboratory in the world, capable of handling every type of scientific crime examination. All of the laboratory experts have at least one college degree and many hold doctor's degrees in chemistry, physics, electrical engineering, and other physical sciences. Many times each day the value of science as one of law enforcement's most potent weapons is proved in the crime laboratory. Through its efforts, countless lawbreakers who might otherwise have succeeded in cheating justice have been removed from society. Others who were innocent have been cleared.

During the 1958 fiscal year, 165,462 laboratory examinations were made. Of this number, 31,027 were made for state and local law enforcement agencies. The examination and the testimony of the examiner in court, if needed, were performed at no expense to the requesting agency.

e. Police Training Programs

The FBI National Academy was founded in July, 1935. It has as its purpose the training of selected law enforcement officers as police administrators and instructors. These police officials have come from all parts of the United States

and its possessions, and some from foreign countries. With the graduation of the 62nd Session of the FBI National Academy in November, 1958, there are now 3,636 graduates. Of the total of 2,472 still engaged in law enforcement as of November 7, 1958, the following number of graduates occupy positions as executive heads of their agencies; 584 chiefs of police, 91 sheriffs, 16 heads of state police organizations, and 22 others who hold positions as heads of their agencies. This represents a total of 713 graduates occupying the top executive positions in their agencies. The percentage of graduates in law enforcement who hold the positions of the executive heads of their agencies is 28.8%.

In addition to the FBI National Academy, the FBI conducts local police training schools and special law enforcement conferences. During the fiscal year 1958, the FBI participated in 2,724 local police training schools throughout the United States. The benefits of this assistance can be measured, in part, by the higher standards of police protection afforded communities across the Nation.

Special law enforcement conferences comprise an important phase of the FBI's police training program. These conferences are held as a cooperative gesture to strengthen America's defense against crime. A series of 186 conferences devoted to interstate transportation of stolen property was held during the 1958 fiscal year. These conferences were attended by 14,968 persons representing 6,405 agencies.

In addition, conferences were held during November and December, 1958, dealing with bombings and threats of bombings. These conferences were also a cooperative gesture to acquaint local law enforcement agencies with how the FBI can assist in investigating this type of criminal activity. A series of 176 such conferences was held, attended by 8,112 persons representing 3,687 agencies.

f. Publications

The FBI Law Enforcement Bulletin serves as a scientific professional journal which assists local police in keeping abreast of modern trends in law enforcement. This publication contains timely editorials and analyses, by experts, of individual aspects of crime-detection problems. It also provides a medium for the nationwide dissemination of descriptive data regarding wanted criminals and missing persons. More than 29,000 copies are published monthly for distribution to police officials in all parts of the United States.

In publishing the Uniform Crime Reports, the FBI functions as a central clearinghouse for the compilation of national crime statistics which are voluntarily submitted by 6,595 contributing law enforcement organizations throughout the United States. Data assembled under the uniform crime reporting program provide a yardstick, so to speak, for measuring crime trends and associated problems confronting local communities and the Nation as a whole.

## 9. Wild Gunplay

### Background

Agents of the FBI are authorized to carry firearms in conjunction with the performance of their duties under Section 3052, Title 18, United States Code. The scope of the jurisdiction of the FBI is such that Agents, in the performance of their duties are confronted daily with the task of apprehending individuals, some of whom are representative of the most hardened and vicious elements the underworld of vice and corruption spawns. It is inevitable that the clash of these opposing forces would sometimes be marked by gunfire.

### Context

To support his contention that the FBI is governed by a police-state mentality which condones the use of brutal, police-state methods, Cook weaves into his analysis of FBI operations phrases deliberately designed to convey the idea that the FBI engages in wild gunplay. Cook describes the "shot-punctuated hunt" which ended with Dillinger being gunned to death by an "FBI fusillade," and he depicts an especially dangerous scene which occurred in the Brunette case, when "bullets began to ricochet around the walls of the apartment building where twenty families lived." On other occasions, Cook spells out his charge more clearly.

### Charge

"Time and again, local police, quietly and efficiently, have made important arrests without the wild gunplay that the bureau found so necessary."  
(p. 277)

## Facts

FBI Agents are trained to shoot only in self-defense. From July, 1937, to December, 1958, seven FBI Agents were killed attempting to apprehend criminals. During that period, exactly 168,147 Bureau fugitives alone were located or taken into custody. This, it should be noted, represents only a portion of all the criminal arrests made by FBI Agents during that time. In all the arrests made, only 26 criminals were killed. These died as a result of resisting arrest. These facts speak for themselves in most effectively refuting any charge that the FBI engages in wild gunplay.

## 10. Fingerprints

### Background

The FBI Identification Division was founded in July, 1924, with approximately 500,000 fingerprint cards obtained from various sources. Since that time, it has acted as a national clearinghouse for the acquisition, preservation, and exchange of identification and related records with authorized officials of the Federal Government, states, cities, and other institutions.

### Context

Generally speaking, Cook is favorably disposed toward the Identification Division--he lists it, along with the FBI Laboratory and the National Academy, as "solid accomplishments"--but he is critical of its giant collection of civil prints and old criminal prints of men who may have since decided to "go straight."

### Charge

"The only criticism that has ever been made of the bureau's fingerprinting activities stemmed from Hoover's urge to gather more and more prints, to amass the most colossal fingerprint collection in the world...." (p. 255)

### Facts

*This is one of Cook's weaker arguments, and obviously one in which he does not put his whole heart and soul. He admits that the civil prints serve a very useful purpose in identifying amnesia victims and the bodies of persons killed in major disasters, but he asks indirectly whether such uses "justify the mammoth collection." Undoubtedly the next-of-kin of those killed by hurricanes, airplane crashes, and numerous other disasters would answer in the affirmative. The FBI's Disaster Squad is a great consolation to bereaved relatives seeking to identify the final remains of those who have been so dear to them during their lifetime.*

*As for the massive collection, there is no way of telling who will die in an explosion or fire, crash in a plane, suffer from amnesia, or--as in one case--be buried under a false name because of visual identification. It is analogous to smallpox vaccination. The odds are great that any one given individual out of 175,000,000 will not be afflicted with this dread disease during a normal life span. But who is to say which one out of the 175,000,000 is not to be vaccinated? And, as long as the program of civil fingerprinting is a purely voluntary one, much on the order of life insurance, who is Cook to complain about the size of the program?*

### Charge

*A fingerprint record "sometimes scars and hounds a man who has atoned for a long-ago transgression..." (p. 255)*

### Facts

*The motives and mental gymnastics of previously arrested criminals are not for the FBI, as a records maintenance center, to judge. In states where local laws require the destruction of prints of persons acquitted of crimes, the FBI returns these prints for destruction.*

Therefore, if a man sincerely believes he has "gone straight," he should take the matter up with the local agency that submitted his prints in the first place. If that agency requests the return of the prints, the FBI will be only too glad to comply. In the meantime, much good is accomplished with these criminal prints. Every month, 1,300 fugitives are located through them; missing persons are returned to their homes; and innocent persons are cleared of crimes charged against them.

## 11. Espionage during World War II

### Background

The FBI was alert to Nazi espionage, and spy rings were broken up long before the United States entered World War II.

### Context

The FBI has consistently sought to convey the impression that it had complete control over all espionage, including communist espionage, in the United States during World War II.

### Charge

Cook alleges that in a speech delivered on December 10, 1945, the Director claimed that the FBI had successfully thwarted all espionage during World War II, and demands to know how this is consistent with the facts of the Amerasia and Bentley cases. (p. 268)

### Facts

While accurately quoting from the Director's speech before the International Association of Chiefs of Police on December 10, 1945, Cook omitted significant sentences thus presenting a misleading impression. The Director was speaking

directly of the enemy during World War II--the Fascist menace. Cook's version deletes any reference to Germany, implying that the Director was speaking of communist espionage. Following is the pertinent paragraph from the Director's address with the portions omitted by Cook included and underlined:

"Early in the war, skeptics proclaimed that we were wide open to espionage. They held that nothing was secure and nothing was being done. The record is exactly to the contrary. We knew from the very outbreak of the war that espionage was under control. I do not mean that the enemy was not active. He was. Foreign powers tried to steal not only the atomic bomb, but other military secrets. For years, Nazi Germany had built an espionage machine and an army of Fifth Columnists, which proved to be the downfall of once proud nations.

"They spent money with reckless abandon and were constantly on the alert to train, develop and unleash spies and saboteurs, not only in the United States, but throughout the entire Western Hemisphere. The counterespionage program which we developed did more than encircle spies and render them harmless. It enabled us to learn of their weaknesses and their aims."  
(Address, J. Edgar Hoover before International Association of Chiefs of Police, Miami Beach, Florida, December 10, 1945)

#### Charge

From an Associated Press story of August 8, 1945, Cook quotes: "...the FBI investigated every person employed by the atomic-bomb development." (p. 268)



### Facts

The FBI did not investigate every person employed by the "atomic-bomb development." An agreement was reached between the Bureau and G-2, War Department, on April 5, 1943, that the Bureau would take no action regarding investigation of persons connected with the Manhattan Engineer District unless Military Intelligence specifically requested it, the War Department taking complete responsibility for protective activities. This agreement, which was continued in effect during the entire life of the Manhattan Engineer District, fixed complete responsibility on the War Department.

## 12. Leaks to Congressional Committees

### Background

Over the years, a number of Congressmen have been publicly quoted as having access to FBI files.

### Context

These statements have been used by Cook, as in the *Hiss* case, to buttress his theory that the FBI "leaks" information to favored Congressional committees on an unofficial basis.

### Charge

In the Army-McCarthy hearings, McCarthy "flourished a letter out of the FBI's secret hoard..." (p. 278)

### Facts

During the Army-McCarthy hearings in 1954, Senator Joseph R. McCarthy made public an FBI letter to Major General Alexander R. Bolling, then head of Intelligence.

*This letter was dated January 26, 1951, and was marked "Personal and Confidential." Senator McCarthy declined to identify the source through which he had obtained this information except to state categorically that "it did not come from the FBI." Referring to this letter, Senator McCarthy said, "I made it clear that I never received anything from J. Edgar Hoover."*

*Charge*

*There was testimony that Roy Cohn "bragged (Cohn promptly denied it) that he had ready access to FBI secrets..." (p. 278)*

*Facts*

*Testifying under oath regarding this alleged admission that he had access to FBI reports, Roy M. Cohn denied that he had "access to FBI files when I want them." Still under oath. Cohn stated further: "I did not say, sir, and I could not have said, that I have access to FBI files, because, sir, since I have come with this committee I have not had access to FBI files and I have never seen an FBI file...."*

*Charge*

*The late Senator Pat McCarran, "an investigator of the McCarthy stripe, declared explicitly on the floor of the Senate on March 25, 1953: 'I have had dozens of them (FBI secret files) in my possession and have taken them home and used them for Sunday reading.'" (p. 278)*

*Facts*

*Two different issues are involved in these remarks of the late Senator McCarran, both of them contingent on his position at the time as chairman of the Senate Committee*

on the Judiciary. With the full knowledge and authorization of the Attorney General, the FBI investigates staff members of the Senate Committee on the Judiciary and makes the information developed in these investigations available to the committee chairman. The FBI also investigates appointees to the offices of United States Attorney and Federal Judge. The reports in these cases are disseminated only to the Department of Justice. However, in connection with the Senate confirmation of these appointments, the Department of Justice prepares a summary of the FBI's investigation for the Senate Committee on the Judiciary. If FBI reports in these investigations are made available to the Senate Committee on the Judiciary, it is the Department of Justice--not the FBI--which discloses them.

Significantly, Senator McCarran, referred to the FBI files which he had seen "as chairman of the Judiciary Committee," and he also pointed out that, after discussions with the Department of Justice, it was agreed that "the chairman of the committee might have the files, but no one else." Testifying before the Senate Subcommittee on Appropriations on March 27, 1953, two days after Senator McCarran's remarks, the Director explained that although Senator McCarran had received information from FBI files in his capacity as chairman of the Senate Committee on the Judiciary, he had been furnished copies of Agent's reports--not "raw" files. The Director further testified that the material which had been furnished to Senator McCarran "was from the office of the Deputy Attorney General."

### 13. Statistics

#### Background

In making his annual appearance before the House Subcommittee on Appropriations, the Director cites a number of statistics setting forth the accomplishments of his organization so that the public at large and their duly elected representatives in Congress may judge for themselves whether or not the FBI is justifying its annual cost to the Nation.

### Context

Aware of the significance of these accomplishment figures, Cook, in an attempt to discredit them, devotes a considerable portion of Part 7 of his article to sly innuendoes and misquotes.

### Charge

"Anyone who has become conditioned during the years to accept Hoover's statement that the FBI achieves from 94 to 97 per cent of convictions in its cases, a nearly perfect batting average, will almost certainly be shocked at the Brookings Institution's findings for the 1935-36 period." Instead of accepting the Hoover statement the Brookings researchers "cross-checked with the reports of federal attorneys on the disposition of cases developed by the different federal detective agencies." It found that the FBI's record of convictions for the 1935-36 period was 72.5 per cent--trailing, in fact, the Narcotics Bureau, the Secret Service Division, the Alcohol Tax Unit, the Post Office Inspection Service and the Internal Revenue Bureau...." (p. 256)

### Facts

This is a typical example of obscuring an issue by trying to compare apples and oranges. The FBI statistics, as clearly stated by Mr. Hoover in his annual report of 1957, include only those persons "tried in Federal Court as a result of FBI investigations." Arrested subjects against whom final prosecutive action is not taken in Federal Court are not considered. This criterion has been established to eliminate the vagaries and inconsistencies of different prosecutors throughout the country in accepting out-of-court settlements, dismissing cases with leave to reinstate them later, or deciding to enter pleas of nolle prosequi. These decisions are legal procedures of the prosecuting officials only, and in no way reflect upon the efficiency of the investigating or enforcement agencies. To maintain the consistency of this system, even though it undoubtedly reduces considerably the picture of the

FBI's accomplishments, no accounting is made of those subjects apprehended as the result of FBI investigations but convicted in state or local courts.

#### Charge

"The technique employed by Hoover in shocking the public into awareness of the current menace" was analyzed by Arthur C. Millspaugh in the Brookings report.

"This analysis would seem to demonstrate in devastating fashion that, when the director of the FBI takes the stump to expatiate on the horrors of crime, he gets carried away by his theme until his figures lose all contact with reality...."  
(p. 257)

#### Facts

Cook's charge that statistics are used to create a menace is as false as his statement that a portion of the Brookings report, which he used to support his contention, was "almost ignored." In fact, on November 5, 1937, the Director acceded to a request from the Harvard Law Review to review the report for that publication. In his review, the Director categorically denied the inferential distortions of Millspaugh, stating that the statistics released by the FBI are based on facts which are subject to proof. The Director declared unequivocally: "There has been no distortion of such facts in my public utterances; there has been no distortion of such facts in the reports of this Bureau." It was clearly pointed out that Millspaugh had written his report without even making an inquiry of the Bureau on this issue, which is a research function which could not have been ignored in order to obtain the true facts and avoid the inferential distortions that resulted.

#### Charge

Cook quotes extensively from an item which appeared in the May 3, 1958, issue of The New Yorker magazine in support

of his contention that FBI statistics are exaggerated. The pertinent portion of this item in The New Yorker, which, in turn, was based on an article in the April 24, 1958, issue of The New York Times, stated as follows: "If you took a 'group of serious crimes classified separately--murder, manslaughter, rape, robbery, aggravated assault, burglary, larceny, and auto theft,' the FBI reported, 'those under eighteen made up 47.2 per cent of persons arrested for such crimes.' " (emphasis added) Based on the phrase "classified separately," The New Yorker charges the FBI with implying that 47.2 per cent of all murders, burglaries, armed robberies, rapes, and the like were committed by juveniles; whereas, for example, they were actually responsible for only 6 per cent of the murders and only 9 per cent of the aggravated assaults. (pp. 257, 258)

#### Facts

The Uniform Crime Reports, on which the article in The New York Times was based, states that "although youths under 18 account for only 12.3 percent of arrests for all age groups, they make up 47.2 percent of the arrests for the part I crimes of murder and nonnegligent manslaughter, negligent manslaughter, rape, robbery, aggravated assault, burglary-breaking or entering, larceny-theft and auto theft." As is evident, nowhere in the FBI release does the misleading phrase "classified separately" appear. The use of this phrase, on which The New Yorker's erroneous conclusion so uncritically welcomed by Cook is based, was the result of a misinterpretation by The New York Times of the statistics released by the FBI. The phrase "classified separately" is crucial to The New Yorker's line of reasoning on which Cook relies so heavily. However, The New Yorker incorrectly attributes this phrase to the FBI rather than to The New York Times, thereby vitiating its, and Cook's, entire charge.

#### 14. Police-State Mentality

##### Context

In support of his broad claim that the FBI is dominated by police-state mentality and wields excessive power and influence, Cook alleged that the FBI creates "menaces" and is not subject to the "normal checks of American democracy."

##### Charge

Since 1919, the Director has failed to distinguish between "revolutionaries and liberals." (p. 279)

##### Facts

The Director has never criticized the true liberal. He has called attention to the "pseudo-liberals" whom he has defined as follows:

"...individuals who are not members of the Communist Party and who quite vociferously deny any sympathy with communism but who, through being duped by Communist contacts, espouse causes sponsored by the Communists. They oppose security programs and sponsor liberalizing security measures; they oppose urgently needed internal security measures; and they advance the theory that the menace of communism is a mere myth or hysteria. They contend that the Communist Party is a political party...and not a conspiracy designed to overthrow the United States Government by force and violence."  
(Hearings before the Subcommittee of the Committee on Appropriations, House of Representatives, 84th Congress, 2nd Session, p. 245)

### Charge

Cook alleges that in order for the FBI to justify a huge police bureaucracy, there must constantly be a "menace" to keep the public worried. First came the "kidnaping menace." Then followed the "bank-robbery menace," "sabotage and espionage," "internal subversion," "juvenile delinquency and, just possibly, the interlockings of really big-league crime." (p. 257)

### Facts

The doctor does not create the disease. Although Cook would like to imply that this is the case, would he deny the Bremer, Ross, Urschel, Hamm, McElroy, Stoll, Matson, and Lindbergh kidnappings? The Dillingers, the "Baby Face" Nelsons, the "Pretty Boy" Floyds, the Barker-Karpis gangs, and the Willie Suttons? The eight German saboteurs who landed from a submarine, the Duquesne spy ring, the Rosenberg spy ring, the Silvermaster spy ring, and Judith Coplon? The communist underground? The juvenile torture murders and gang assaults on the front pages of all the papers? And the organized crime that he himself bleats for the FBI to combat? The "menaces" create themselves; the FBI merely meets them as they arise.

### Charge

"Muted footnotes to the entire critical question of the potential power of the FBI over Congress have been written from time to time in the decades since the Brookhart-Wheeler investigation." These footnotes fall largely into "the category of rumor and speculation." (p. 240)

### Facts

It is well that Cook labels his musings in this respect as "rumor and speculation," because it saves the



reader the effort of arriving at the same conclusion. If the "potential" power of the FBI over Congress had not been actualized in the 35 years and 19 Congresses since 1924, it is not likely to be in the foreseeable future. In contrast to the police powers of totalitarian states, which operate free of nominal legislative bodies, if the FBI is getting out of hand, Congress needs only to tighten up its purse strings or to reduce the Bureau's authority. By no stretch of the imagination can the FBI be construed as having potential power over Congress.

#### Charge

The FBI has amassed in its very private and confidential files detailed dossiers of information "about everyone who really matters." (p. 240)

#### Facts

The FBI's jurisdiction is carefully defined by Executive Orders, congressional legislation, and instructions issued by the Attorney General. Some 150 Federal investigative matters are within the FBI's jurisdiction, and the FBI is limited to investigating these matters only. The FBI does not have funds, personnel, or authority to compile dossiers on "everyone who really matters," nor would the Director tolerate such an irresponsible breach of the FBI's investigative jurisdiction.

#### Charge

Cook implies that the FBI is not "subject to normal scrutiny, normal criticism, the normal checks of American democracy." (p. 278)

#### Facts

The FBI is a subordinate agency of the Department of Justice. The Director holds an appointive position and he may be removed at any time by the Attorney General. The FBI

and the Director are answerable directly to the Attorney General at all times for their actions. They are responsible to the President through the Attorney General. In addition, the FBI is answerable to Congress. In this regard, the Director must appear before the Appropriations Subcommittee each year--not only to outline the FBI's budgetary requirements, but also to explain its operations and answer questions posed by members of the Subcommittee.

The FBI is also directly answerable to the courts. Were any question to arise concerning alleged abuses committed by the FBI, the pertinent facts would be brought forth by the defense at the trial of any case in which such alleged abuses were said to have been perpetrated. Thus it may be said, in sum, that the FBI is most assuredly subject to the normal scrutiny, normal criticism, and normal checks of the President of the United States, the Attorney General, the courts, the Congress, the free press, and the American people.

#### Charge

A critic of the FBI runs "the risk of being considered an enemy of the republic." (p. 277)

#### Facts

Critics of the FBI have been many and varied. Members of Congress, members of the press, governmental officials and citizens in all walks of life have freely criticized the FBI on many occasions. No effort was ever made in any quarter to halt their opinions or their right to express such opinions. Mr. Hoover has many times aired his views on this subject:

"The FBI is a human agency and it can make mistakes, but when these occur you can be certain that we will hear about them and in such instances we always make a full inquiry into the facts. Our work is constantly under the scrutiny of the courts and other authorities, and we could not long survive if there were abuses." (U. S. News & World Report, March 30, 1951, p. 36)

"Under our system of government, an individual has every right to speak freely. I thoroughly subscribe to the well-known historical expression that I may disagree completely with what a man says, but I will defend to the limit his right to say it. Free expression is the essence of our way of life....

"Yet, in the spirit of our forefathers, I think potential rabble-rousers should carefully digest a word of wisdom from a distinguished American, Bernard M. Baruch, who said: 'Every man has a right to his own opinion, but no man has a right to be wrong in his facts....' "  
(Introduction, FBI Law Enforcement Bulletin, July, 1958.)

### C. Miscellaneous Errata

Set forth hereinafter are parallel columns showing (1) a sampling of errors and inaccuracies in Cook's statements in his article and (2) the facts to set the record straight. While many of these errors may be minor in nature and are not considered primary refutations for Cook's damning charges, the errors do show that Cook is extremely susceptible to criticism. His lack of accuracy on many points certainly casts doubt on his reliability, thoroughness, and fairness in a profession which calls for the highest standards in preparing material for publication.

#### 1. Dates

##### Cook

On April 11, 1924, Director Burns was called to the witness stand.  
(p. 238)

##### Facts

Burns testified before the Brookhart-Wheeler committee on April 10, 1924.

Hoover testified before the Brookhart-Wheeler committee on May 15, 1924. (p. 241)

Mr. Hoover testified on May 17, 1924.

The Director testified before the House Appropriations Subcommittee on May 18, 1939. (p. 264)

The Director testified on April 27, 1939. Actually May 18, 1939, was the date his testimony was made public.

The construction of Cook's article, in referring to the Christian Front case, indicates that the arrests occurred on January 15, 1940. (p. 265)

The arrests of the Christian Front case were made on January 13 and 14, 1940.

On August 14, 1957, the Director wrote a letter to Representative Joseph W. Martin, Jr., concerning legislation to protect FBI files from disclosure. (p. 223)

The Director's letter to Representative Martin was dated August 10, 1957.

A specifically quoted laudatory comment was used by the chairman of the House Appropriations Subcommittee in 1947 to introduce the Director's appearance. (p. 240)

The particular statement was made by the chairman of the Appropriations Subcommittee on January 17, 1946.

Coplon was arrested "on the night of March 6, 1949." (p. 275)

Coplon was arrested on March 4, 1949.

In December, 1949, Fuchs confessed to British authorities that he had been a communist spy. (p. 274)

Fuchs confessed on January 24, 1950.

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On Saturday afternoon, July 21, 1924, [redacted] telephoned exciting information concerning Dillinger to Special Agent in Charge Melvin H. Purvis. (p. 247)

The date should have been 1934.

## 2. Events in Cases

### Cook

On July 30, 1933, (in the Urschel case) the evening plane did not pass over the farmhouse. (p. 244)

One defendant in the Christian Front case had committed suicide in his prison cell. (p. 266)

Cook indicated that the Agents were to receive a prearranged signal from Special Agent in Charge Purvis when Dillinger emerged from the Biograph Theater on July 22, 1934. The signal, according to Cook, for moving in on Dillinger was for Purvis to stretch out his hand from the car in which he was sitting and bring it down in a sweeping gesture, fist closed. (pp. 247, 248)

### Facts

It was the morning plane.

Defendant Claus G. Ernecke, who was on bail, committed suicide by hanging himself in the basement of a Brooklyn, New York, apartment house on April 13, 1940.

At 10:40 p.m., Dillinger was observed leaving the theater by Special Agent in Charge Purvis. Purvis lit a cigar, the prearranged signal that Dillinger had emerged from the theater.

Some 15 Agents started to close in on Dillinger after he left the Biograph Theater on July 22, 1934. (p. 248)

Twenty-two Agents. [redacted]  
[redacted] and three other East Chicago, Indiana, officers participated in the surveillance at the Biograph Theater on July 22, 1934.

In Miss Coplon's handbag, at the time of her arrest, were a number of documents, including "one memo in her own handwriting." (p. 275)

The document was typewritten.

The Bureau's description of the corridor as measuring 4,512 square feet shrank to 448 square feet according to a sketch that [redacted] offered before a Senate committee. Into this restricted space "some 800 men had been packed." (p. 235)

The absurdity of 800 men being crowded into 448 square feet of space is apparent when it is realized that this is the approximate size of a boxing ring.

### 3. Quotations

#### Cook

The New York Times noted that the FBI's 1948 budget estimate was \$43 million. (p. 240)

Attorney General Homer S. Cummings proclaimed on one occasion to the Daughters of the American Revolution,

#### Facts

The New York Times item stated, "This year the estimate is \$43,900,000."

In this quotation, the phrase "a war against" should read "a war with."

"'We are now engaged in a war that threatens the safety of our country-- a war against the organized forces of crime.'" (p. 243)

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"... 'As in the past,' he (the Director) added, 'a keynote of the FBI's work in this field was the prevention of espionage, sabotage and other activities inimical to the nation's security....'" (p. 267)

The quote should be "... 'As in the past,' he added, 'the keynote...'"

#### 4. Persons and Organizations

##### Cook

[ ] was Special Agent in Charge of the New York office. (p. 253)

Hoover was put in charge of a unit in the enemy alien registration section of the Bureau. (p. 227)

One of the best pictures of Hoover as a young man on the rise was painted by Jack Alexander, now an associate editor of The Saturday Evening Post. (p. 227)

##### Facts

[ ] never was a Special Agent in Charge.

Mr. Hoover was put in charge of a unit in the enemy alien registration section of the Department of Justice.

The January 24, 1959, issue of The Saturday Evening Post reflects that Jack Alexander is senior editor, not an associate editor.

As a high school student, Mr. Hoover had sung in the choir and taught a Sunday-school class at the Presbyterian Church of the Covenant. (p. 227)

Mr. Hoover sang in the Church of the Reformation (Lutheran) in Washington, D. C. He taught Sunday school in the First Presbyterian Church, which was later merged with the Covenant Presbyterian Church.

[redacted]  
[redacted]  
testified. (p. 235)

The name was [redacted]  
not [redacted]

Another denunciatory report was prepared by the "Interworld Church Movement." (p. 232)

It was the Interchurch World Movement, not the Interworld Church Movement.

There are valid grounds now for wondering whether the Russians needed to steal the atom bomb secret at all. (p. 275)

Speculation as to the degree the Soviets were aided by theft of United States secrets is not at issue. The fact is that the secrets were stolen in direct violation of United States law.

Hoover played a "dual role." He was a special assistant to the Attorney General; he did handle legal details of the prosecutions. But also he had been attached to the Bureau since he joined the Department in 1917. (pp. 233-234)

The Director did not play a "dual role" in the "Palmer Raids." At the time of the raids, Mr. Hoover was a special assistant to the Attorney General, charged with the responsibility of prosecuting deportation cases. The raids were conducted by William J. Flynn. Mr. Hoover did not become an employee of the Bureau of Investigation until August, 1921, when he was appointed Assistant Director.



William Gerald Bishop, alleged ringleader in the Christian Front case, was described by Hoover as a man who intended to place a dictator in the White House. (p. 265)

No statement was made that Bishop intended to place a dictator in the White House. The Director told reporters, as reflected in press accounts, that the group plotted to set up a dictatorship similar to the Hitler dictatorship in Germany.

## 5. Testimony

### Cook

Hoover told the House Appropriations Subcommittee that espionage complaints for the year might reach 70,000. (p. 267)

On October 9, 1943, in his annual report, Hoover presented some astronomical figures. He said his Bureau had handled 390,805 national security matters during the year, a 50 per cent increase from the preceding year. (p. 267)

One FBI Agent testified in the Christian Front case that Bishop had bragged he had 174 New York City policemen who were ready "to join the revolution." (pp. 265-266)

### Facts

The Director's testimony clearly indicated that the 70,000 complaints dealt with all national defense matters.

The Director did not testify that there had been a 50 per cent increase from the preceding year. No specific percentage increase was given. Computation reflects that it would have amounted to approximately a 79 per cent increase.

The Agent testified that Bishop had bragged about 175 policemen.

Within three and one-half months of the GID's existence, its biographical writers had written a more or less complete history of over 60,000 radically inclined individuals. (p. 231)

No one ever said that 60,000 biographies were written in three and one-half months. An examination of the sources cited by Lowenthal reflects that biographies were prepared on only a portion of the radicals, many of them authors, publishers, and editors of revolutionary literature. The assembling of a more or less complete history of 60,000 radically inclined individuals merely referred to information gathered by investigations and findings relating to these persons. No actual biographies are indicated.

Fuchs, it would seem, could have relayed to Gold much more important knowledge than could David Greenglass, a slow mental type who never in his life had passed a technical course. (p. 274)

This was a contention of the defense during the Rosenberg trial. Cross-examination of Greenglass developed that he had attended Brooklyn Polytechnic High School for six months when he was 16 years old and had failed eight courses. However, Greenglass also testified that he had no desire to attend school at the time and had not attended courses regularly. He added that he had subsequently gone to Pratt Institute for one and one-half semesters and had received good grades.

Bentley incorrectly identified a source of some of her information as a general in the Air Force, when he was actually attached to the Civil Affairs Division of the War Department. (p. 272)

Bentley did not say that the general was with the Air Force; she was not quite sure of the general's status. It was Mr. Stripling of the House Committee who placed the general in the Air Force.

## 6. Miscellaneous

### Cook

Cook refers to the morning of August 24, 1936, the date of the initial conference between the Director and President Roosevelt at the White House relating to subversive matters:

"...In the light of later events, it seems ironic and worthy of special emphasis that Roosevelt's major concern at that particular moment (according to the Hoover-Whitehead version, at any rate) appears to have been not with Fascist sympathizers, but with the Communists." (p. 264)

The name most prominently mentioned in this initial conference, Whitehead reports, was that of Constantine Oumansky, counselor for the Soviet Embassy. (p. 264)

### Facts

This is a wholesale distortion. The text of The FBI Story itself refutes Cook's statement and indicates that the President was equally concerned over both communism and fascism:

"Roosevelt...wondered if there were some way by which he could obtain a broad intelligence picture of Communist and Fascist activities alike in relation to the economic and political life of the country."

"...Roosevelt stated his concern over the lack of information he had on Communist and Fascist activities..."

"Roosevelt discussed at length the international character of communism and fascism...."

Oumansky's name came up in the conference held with President Roosevelt on the day after the initial conference, as The FBI Story clearly states.

The combination of these two errors in juxtaposition appears to impute that the Government was showing an excessive interest in communist activities, at the expense of attention to fascist activities.

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