

*Recently released FBI files reveal that Supreme Court Justice Felix Frankfurter recommended ACLU General Counsel Morris Ernst to Soviet spy*

FBI files regarding Morris Ernst reveal a secret surveillance of Soviet spy Abraham Glasser. The term secret surveillance usually refers to a wiretap, and Ernst's name came up on the wiretap. The FBI agent writes that Glasser had called Felix (probably Felix Frankfurter, Associate Justice, Supreme Court.) The FBI agent writing the report inserts the language, "probably Felix Frankfurter, Associate Justice, US Supreme Court." One can assume that the FBI agent knows that this intercepted phone call went to Felix Frankfurter, even though he does not have the actual wiretap transcript in front of him; only a summary. Glasser was convicted of spying in 1951, and sentenced to two years in prison for violations of the Smith Act, but in actuality, law enforcement officials knew he was spying as early as the 1930's. The government chose not to prosecute quite a few spies because they did not want to jeopardize the secret Venona Project; the fact that we had long since broken the Soviet code, and did not want to disclose it. Prosecutions were held in abeyance for years if the FBI and military intelligence thought they had the situation under control.

Glasser, a young attorney in the Justice Department who worked on military intelligence matters, was passing documents to the Soviets since the 1930's. It is still unclear how long the FBI knew he was a Soviet spy. Glasser was also spying on other communists who were not loyal to the Stalinist line. In the intercepted phone call, "Felix" is heard recommending that Glasser get a lawyer, and Frankfurter recommends Morris Ernst. "On 6-20-41, through a highly confidential surveillance in Washington, D.C., it was learned that Abraham (Glasser) (subject of 101-24) called Felix (probably Felix Frankfurter, Associate Justice of Supreme Court.) In the conversation Felix asked if Abe had thought of Morris Ernst, in connection with Abe that "he get a lawyer" and had said he had." Was Frankfurter also a target? FBI files make no comment whatsoever. Perhaps a Supreme Court Justice was too sensitive an issue for a field agent to handle. In retrospect, it certainly appears unseemly that a Supreme Court Justice is giving legal advice to a person who has a KGB handler. And the ultimate irony is that Frankfurter recommends ACLU General Counsel Morris Ernst. It becomes a familiar pattern of ACLU attorneys representing Soviet spies; again, spies, not just American Communists. Morris Ernst would make a bid to represent the Rosenbergs, but they would pass on Ernst. Instead, they would select ACLU Attorney O. John Rogge. As the case progressed, they would then select Emanuel Bloch, who would represent them at trial. Rogge then would represent David and Ruth Greenglass. It would have fatal consequences, as they would become the only Soviet spies executed.

It is unknown if the Rosenbergs knew that Attorney Bloch shared office space with O. John Rogge, and that they were close personal friends. In effect, ACLU General Counsel Morris Ernst had assured J. Edgar Hoover that he was sure he could get the Rosenbergs to confess. The Rosenbergs may have smelled a rat, passing on his defense services. They next approached O. John Rogge. When that did not work out, they retained Attorney Bloch. All three attorneys were connected to the American Civil Liberties Union. The Rosenbergs could not be in a more vulnerable position, surrounded by attorneys connected to the same organization. They would be executed within two years of conviction. It was the quickest execution, and only execution, regarding the 1950's spy cases. It was also the worst defense provided by any attorneys connected with the ACLU. FDR would execute German spies at the beginning of the war, against the advice of J. Edgar Hoover. Many have charged that it was a publicity stunt, and the speed of their conviction represents a landmark in American justice; or lack thereof. Similarly, the execution of the Rosenbergs was done "with all

deliberate speed". Unfortunately for the Rosenbergs, this was not Brown vs. Board of Education. No one was accusing the Justice Department of dragging their feet.

The FBI file also reveals a number of anti-war organizations that Morris Ernst was closing down. It appears that the eponymous sounding names were all fronts controlled by just a few people connected to the ACLU. Ernst was closing them down because the ACLU was no longer anti-war. When Stalin was Hitler's partner, Ernst was setting up The Keep America Out of War Committee. FBI files report that "Ernst was on the Advisory Committee to Keep America out of War Congress at the time it came into existence in the early part of 1938, in NYC." As soon as Hitler invaded the Soviet Union, the ACLU leadership decided it no longer liked Hitler. Or is it that they really liked Stalin better? Whatever the reason, the ACLU was about to become rabidly pro-war, and paint every anti-war citizen, pacifist or not, as a Nazi lover. The ACLU had failed to see the evils of Nazism until Joe Stalin pointed it out to them. From that point on, the ACLU was safely in the pro-war camp.

Rather than politely notify its anti-war friends that it no longer believed as they did, this civil liberties organization would use very uncivil methods to debate the issue. The formerly anti-war groups would fade into the woodwork, and the drumbeat of war would be heard echoing in the hallways of the ACLU National Office. New groups would rise up, all pro-war, and it would be difficult to discern who was running them.

Further remarkable charges are contained in the FBI file that Attorney O. John Rogge was a communist. While the charges seem to come from the right, they mirror charges from the left that Rogge was a communist; but are more damning. He is accused of being a spy for Stalin. The great American actor, Paul Robeson, a proud and very public Communist charged Rogge of being an agent for Stalin while attending an international communist convention. While Rogge denied it, he did admit to being Yugoslavia's Communist leader, Tito's paid attorney. It has never been proven that Rogge was on Stalin's payroll, but this troubling admission by Rogge of representing foreign communists is not an attack from the right; but a simple admission on Rogge's part. He was a long time ACLU attorney. He arrived at the ACLU shortly after being fired from the US Justice Department. He was the special prosecutor in the Sedition Trial of 1944; the case thrown out by the federal judge after 3,000 pages of testimony. The trial did serve to smear anti-war opponents, and the trial can be directly attributable to the defeat of Senator Gerald Nye, who was called to testify in the trial in the midst of his re-election campaign. Many observers of that era had charged it was all politically motivated. Nye was the Chairman of the Munitions Committee in the mid 30's, who charged the J.P. Morgan firm with being the munitions supplier to the world, or the financier of every major munitions supplier.

Why would the ACLU hire Rogge with such a checkered past? He hardly stood for civil liberties. Even proud communists were calling him a foreign agent. Robeson apparently was solidly pro-American; just communist; He was not an unknown person with an unknown past. The famed actor was hardly a right winger. The Sedition Trial of 1944 has been considered the worst violation of civil liberties in American jurisprudence. Harry Truman fired him as one of his first official acts; and would fire Attorney General Biddle too, and the ACLU would make him Chairman of the Board. What did the ACLU not know about O. John Rogge? One would have to go back to the time of John Adams, and the Alien & Sedition Acts, to find a greater debate on civil liberties. And it all happened in Washington, D.C., under the noses of Congress, The Supreme Court, and the White House. With the odor of the case wafting down the Potomac, at least two branches of government wanted the case to disappear. The White House aggressively pushed the case, in fact, created it. FDR would not pull the plug, and appear delusional in thinking he could win. It was his own federal judge who would throw it out after 3,000 pages of tedious testimony.

The ACLU, in this case, seems to be part of the national security state, with a twist. The ACLU principals are moonlighting as representatives of foreign agents. They appear as arbiters of dissent, deciding

who can speak out, and who cannot. Determining what is healthy speech for a democracy at war; and what is not. Then their opposition, those opposed to their client's interests, are destroyed by false front organizations who do not appear connected to the ACLU in any way shape or form. It would take a James Bond look alike, British secret agent Intrepid, who would admit in his 1976 best seller, *Intrepid*, that the Fight for Freedom Committee, and all the other pro-war groups were creations of British Intelligence.

Had J. Edgar Hoover created any such false fronts, the congressional investigating committees would have been meeting for years. Hoover actually did a very good job of keeping Congress aware of who the false fronts were. Many liberal and conservative members of congress shouted it from the rooftops. But newspapers don't print in decibel levels; if it appears on the back page of the major newspapers, the readers assume it has no relative importance. If it is not headlines, it can't be important. The regular news beat writers don't get to select the headlines. That job is left to newspaper editors who often report directly to the owners.