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### **Harvey Matusow, the FBI, and the Justice Department: Becoming a Government Informer-witness in the McCarthy Era**

Until 1955, when, to great fanfare, he recanted testimony given under oath in a variety of forums, Harvey Matusow was one of several dozen ex-Communist witnesses who frequently testified for the US government in McCarthy-era “Communist” cases. The Department of Justice placed these useful individuals under a contract arrangement, paid them (in varying amounts), and termed them “consultants” or “security witnesses.” Journalist Richard Rovere called them “kept witnesses.”<sup>1</sup>

For the most part, their role was routine. Almost never did they give dramatic testimony about Soviet espionage—they had no such testimony to offer. Instead, their job primarily was to affirm, in case after case, that persons accused by the government were in fact members (or, in most cases, past members) of the Communist Party or a Communist-front organization. The forums in which they appeared were principally: (1) Immigration & Naturalization Service proceedings seeking the deportation of aliens who, after entering the country, had been members of the Communist Party (often only briefly or many years earlier); (2) criminal trials, such as Smith Act prosecutions, in which Party officials were charged with conspiring to teach or advocate forceful overthrow of the government (often on the basis of alleged adherence to dated Marxist texts); and (3) proceedings before the Subversive Activities Control Board, a newly-created administrative agency empowered to compel the Party, its members, and Communist-front organizations to register with the government.<sup>2</sup>

Many of the same witnesses also regularly appeared as “friendly” witnesses before the House Committee on Un-American Activities, the Senate Internal Security Subcommittee, and (in 1953–54) Joe McCarthy’s subcommittee, making the familiar accusations of Party and Communist-front membership that were the grist for the committees’ investigative mills.<sup>3</sup>

The highest-paid witness in the group, John Lautner, a former Party functionary who became the top government witness in Smith Act cases, received over \$16,000 in the 1953–55 period. Harvey Matusow, who testified less frequently and was not valued as highly, received far less.<sup>4</sup>

But when Matusow publicly recanted his testimony, many in government suffered acute embarrassment—not least officials at the Justice Department, which had vouched for him as a witness in two major criminal trials and a number of SACB and deportation proceedings; the FBI, for which he had been an undercover informant while in the Communist Party; and HUAC and SSI, before which he had given highly-publicized testimony. That Matusow’s recantation was accompanied by an announcement that he had written a book titled *False Witness*, to be published by a small press with strongly pro-Communist leanings, only aggravated matters. And worse still, a federal judge proceeded to find, upon careful scrutiny, that Matusow’s testimony in a 1952 Smith Act trial was indeed false, and his recantation of the testimony true, resulting in a new trial for two Communist Party officials.<sup>5</sup>

The government, however, was not without prior warnings about Matusow. The FBI had become disenchanted with him much earlier, and in subsequent years it repeatedly warned the Justice Department about apparent perjury in testimony he had given. In 1953 it advised the Department that Matusow had given the Bureau and SSI (in sworn testimony) sharply conflicting information concerning the alleged Party membership of Clinton Jencks, an official of the left-wing Mine, Mill & Smelter Workers union. Yet, the Department in 1954 used Matusow as its principal witness when it prosecuted Jencks for falsely denying Party membership.<sup>6</sup>

Nor was Matusow the only prominent ex-Communist witness used by the

Justice Department in the face of warnings of unreliability from the FBI. Matthew Cvetic, well-known as hero of the motion picture and radio series “I was a Communist for the FBI,” was another. So was Joseph Mazzei, like Matusow and Cvetic a one-time FBI undercover informer, whose perjuries in several forums led the Supreme Court in 1956 to reverse the convictions of Party officials in a Pittsburgh Smith Act prosecution. The Department did drop Paul Crouch, one of the least credible of the era’s informer-witnesses, but only after his perjuries were placed in the public spotlight by Joseph and Stewart Alsop in their nationally-syndicated column.<sup>7</sup>

To be sure, in the past decade, the credibility of Whittaker Chambers and Elizabeth Bentley, the McCarthy era’s most-renowned ex-Communist informers, has been bolstered, and some historians’ views of the era itself reshaped, as the result of the release of documents from two disparate and long-secret archives. In the early 1990s, KGB archives in the former Soviet Union were opened (albeit selectively) to Random House and author Allen Weinstein, and starting in 1995, VENONA project messages (nearly 3,000 wholly or, in most cases, partially decrypted cables dispatched by Soviet agents during World War II and intercepted by US Army intelligence) were declassified and placed on the Internet. The newly-available documents indicated that a number of the individuals named by Chambers and Bentley—including Alger Hiss and Harry Dexter White—did assist Soviet espionage.<sup>8</sup>

But the testimony of most ex-Communist informers in the McCarthy era had little or nothing to do with spying. The Justice Department’s stable of 83 paid informers (in the 1952–54 period)—30 “regularly used as witnesses” and 53 “occasionally used”—testified almost entirely about political affiliations and activities, not espionage. The need for a large number of informer-witnesses to testify in situations having no connection to spying reflected the sweep of the measures—legislative, executive, and administrative—that government took to counter alleged domestic Communist “subversion.” This large class of political informers has only recently engaged the close attention of historians, with Daniel J. Leab’s biography of Matthew Cvetic, published in 2000, the first of its kind.<sup>9</sup> The “professional witness” phenomenon, seemingly unique to the McCarthy era, raises questions which call for answers. Is it ever justifiable in a democracy for the government to maintain a stable of paid witnesses to testify on its behalf about the political affiliations (almost always lawful and First Amendment-protected) of individuals holding unpopular views? How to explain the actions of Justice Department lawyers, ethically obligated to avoid the use of perjured testimony, who chose to present as witnesses persons whose truthfulness they had substantial reason to question? More specifically, it is necessary to address the manner in which ex-Communists—Matusow as a prime example—became “professional witnesses” and the attributes of those who undertook, and whom the government accepted for, this role.<sup>10</sup>