

New York University, Center for the United States and the Cold War
Alger Hiss and History, Inaugural Conference, April 5, 2007
G. Edward White (University of Virginia Law School)
“Hiss and History”

G. EDWARD WHITE: Thank you, and it's nice to be here, and I want to say that this may not be an audience that will be entirely -- will show the kind of warmth and sympathy to me that it's shown to some of the other panelists, but notwithstanding that, I want to just say it's been a real pleasure for me to attend this conference and particularly to meet Tony Hiss and Timothy Hobson and be exposed to Victor Navasky, people that I wrote about and thought about but hadn't had the chance to meet, and I'm delighted for them, especially for Timothy and Tony, that they've received the kind of obvious warmth and sympathy from all of you. It's being a child, one doesn't choose one's parents and it can be a blessing and it can be a burden and in the case of Timothy and Tony, it's been a lifetime burden and everything we've suggested today suggests it's going to continue as the case remains in the public eye. It's been a tough road for them and it's not of their doing.

I'm really here to summarize some themes that have emerged and to comment on some of the observations, and I'm obviously not going to comment on all of the papers, and I'm not going to rehearse the historiography of the Hiss Case that I set forth in my book, nor am I really going to spend too much time on the psychological analysis on which I rest my view that Hiss could have quite comfortably for a person such as himself mounted a campaign of deception, first as a Soviet agent, and then as the perpetrator of a narrative in which he figured as a victim when in fact he was involved in espionage and not just for the limited period which was involved in his perjury trials.

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Perhaps I ought to start by clearing up a potential misunderstanding about two features of the crimes, if you will, that Hiss was accused of. He was prosecuted for perjury and not for espionage, but that was not because the prosecution thought that they could not convict him on espionage grounds. It was that the statute of limitations had expired for evidence of espionage that was committed during the period 1937 and 1938, the period in which Chambers asserted that he had known Hiss, and that there had been a transfer of documents. It's a relatively narrow time period and we were not at war with the Soviet Union in that period, and so the way the statute was drafted, an espionage statute, when the espionage involves a period where the United States' time of war has a relatively short statute of limitations, and that statute of limitations had expired.

The other issue which was raised in the last panel is why all the fuss? Because even if one assumes that Hiss transferred information to the Soviets, that was against the interests of the United States government, that the information that he transferred was peanuts. After all, look at the contents of the Pumpkin Papers. Well, of course, the Pumpkin Papers was evidence of stolen government documents that Chambers had -- according to his account -- randomly retained in his possession. The import of the Pumpkin Papers evidence and the typewriter evidence was to show that someone in the Hiss household had produced typed copies of documents that were classified State Department material.

So the point of the Pumpkin Papers was not to show that Alger Hiss had transferred this relatively insignificant set of documents, but that he had transferred documents at all, and the

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claims of those of us who believe that Hiss continued to be an underground Soviet agent for the period that extended until the time he was forced out of the State Department in 1945, that is continued well beyond the period that Chambers defected from the underground network, is that he transferred a lot of information to the Soviet Union, some of which was very important. We don't know what precisely that information was because the Soviets are not coming forward with it to the extent it still exists.

What might be thought to be comparatively mild content of the Pumpkin Papers should not be treated as a proxy for a comparatively mild involvement in espionage. Finally, there seems to be the claim by several people here today that one could construct a narrative in which everything that Alger Hiss said turned out to be true.

Well, that just simply doesn't hold up. If one's concern is whether Hiss is impeccably honest or not, then think lots of people in the Hiss Case, including Whittaker Chambers, were less than impeccably honest, but Hiss for example's claim that he did not know Donald MacLean, the British spy who was at the time in the 1940's when Hiss was in Washington, MacLean was attached to the British Embassy, Hiss claimed that he did not know MacLean, had never met MacLean, and yet there's evidence in MacLean's desk calendar that he had at least two meetings with Hiss. So I don't think, although it's not my function to be the devil's advocate at this group, I don't think we should let things come to rest with a completely one-sided view of either the case or the participants.

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Now I want to associate myself with several of the statements that Victor Navasky made. I think he’s clearly right that from the beginning the Hiss Case has had very large political and ideological overtones, and the effect of that has been that people have enlisted themselves successively, first as actors at the time of the event, as partisans on one side, but perhaps even more importantly over the ages, people have enlisted themselves on one side or another. The case is a kind of symbolic event. It’s a culture wars event. It’s an event that recalls the transition of the American left in the thirties, the painful transition, from -- instinctive support for the Soviet Union as an alternative economic and social utopia through Popular Front collectivism to the disillusionment of the Hitler-Stalin Pact to the sharp turn toward anti-communism and to the split in the pro-New Deal coalition between people who retained a collectivist vision and people who decided to define themselves primarily as anti-communists.

A number of people are still alive and many perhaps are in this audience that personally experienced that transition and so it’s hard not to view the case with a complete attitude of detachment, but then there are lots of other groups that came to the case later. After all the National Review started in the 1950’s, with a focus on communism and the Hiss Case, and so we have a line of intellectual conservatism that ends up in the Pumpkin Papers irregulars in the same fashion, and of course, this group of people are invested in the Hiss Case. So because the Hiss Case is larger than its actual facts, I think Navasky is entirely correct that it’s just going to go on and on in so far as people invest in it and it is a good opportunity for investment, and you

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might even get an exemption to the Sedition Act for investing in it in that fashion rather than in

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I also agree of course with Navasky when he suggests that the central mystery of the Hiss Case, if you've come to believe that the evidence suggests that he's more likely to have been guilty than innocent, the central mystery remains and that is why would he respond to that if he were guilty by mounting the sustained and visible and passionate campaign to vindicate his reputation? Why would he do that? Well, that's what I wrote about in the book and Victor Navasky quoted me earlier as suggesting that Hiss was one of those rare people that enjoyed having a secret life, that felt fulfilled in that life, and that mounting the deception of his innocence was just another part of mounting the deception of his being an underground agent in the first place and it was a strategy that helped his supporters because they would continue to believe in him rather than let's say coming out of prison and saying, 'Gosh, you know, I know I went to the trial claiming and maintaining I was innocent but guess what? I wasn't.'

That is a real downer for those who believe in one and one's family, whereas mounting the campaign for vindication is a way of, in a sense, not letting them down for their own loyalty. So and then finally I think there's a quality to Alger Hiss, which both Timothy and Tony alluded to earlier, that I would put it a little differently, they suggested that he was naive and unaware of personal risks. I would say that he was something of a risktaker, that there was perhaps more calculation to that, that he believed very strongly in his own ability to convince people and be

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“Hiss and History”

engaging and attractive and successful, which he was, and so he believed that he could pull this off.

Why go before the first HUAC meeting without a lawyer? Why not have legal counsel when you are confronted with -- to be sure, you don't know you're going to be confronted with George Crossley/Whittaker Chambers, but you know that the House Un-American Activities Committee has suddenly asked you to appear again before it in a closed-door session in New York, why wouldn't you bring a lawyer to that? Again it's a feeling that 'I'm capable of handling these matters myself. It's a certain amount of risk involved but I rather like risks and I am confident that I can get away with it,' and he was, again if one looks at it from that point of view, he was very successful in changing public opinion from the time he emerged from prison in 1954, where he is essentially treated as a pariah and he has difficulty getting a job. He's disbarred. There's an article about him in Esquire in 1960, that talks about how obscure his life has become. He says in that article he's casting around, he hopes to get jobs perhaps in publishing or some other capacity, but those jobs don't work out.

So really, he's a figure of some notoriety and perhaps headed toward obscurity and then fifteen years later, the Supreme Judicial Court of Massachusetts has reinstated his license to practice law. He's filing a coram nobis position based on new evidence in FBA(?) files to eradicate his conviction for perjury. He's on the lecture circuit. He and Tony are working on a book entitled, “Laughing Last,” which the title says what the message is, that Alger is having the

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last laugh because gradually and increasingly people are coming to believe that he was framed.

After all, look at who wanted him exposed, Richard Nixon, J. Edgar Hoover and Whittaker Chambers. So he's flying high in the 1970's. That's why the emergence of Weinstein's book is so stunning. And that's why in my judgement, I have not confirmed this with Victor Navasky himself, but that's why I believe that Victor Navasky and The Nation adopts the strategy of not so much defending Hiss against Weinstein's evidence but trying to undermine Weinstein himself, and they do a rather good job.

Weinstein has made some mistakes in his treatment of sources. Weinstein is not a lawyer, he's not an experienced political journalist. He is goaded into some statements that are overbroad and then he has to retract from them, and he gives the impression of being evasive and perhaps less than fully balanced in his treatment in a book whose purpose from the outset is advertised as being written by somebody who was instinctively inclined to believe Alger Hiss and thought that Alger Hiss was a victim of the Cold War repression Red Scare mentality, and then when he set out to collect the evidence, found a different sort of truth.

So despite Weinstein's intervention, the Hiss Case remains in ambiguity, so much so that in 1986 when David Remnick interviews Hiss in retirement, in the Eastern end of Long Island, Remnick asserts that the Hiss Case will end in ambiguity. And I think if one were to judge from the reception of the group, the conference so far, many people here would endorse at least that. But in my view, there's not much ambiguity. Not much ambiguity about his guilt.

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Now I want to mention a couple of other points that have been raised along the way.

First of all, I want to talk a little bit about the Bird Chervonnaya scholarship on ALES.

The research behind that scholarship is prodigious and the scholarship is ingenious and the authors are both very experienced with both the Hiss Case and archival work. But we should remember the context of the general posture of the Hiss Case versus this ALES issue. No one who supports the thesis of Hiss’s guilt is prepared to suggest that it rises or falls on whether Hiss was ALES or not. The beauty of the ALES telegrams, decoded messages, is that one of those messages describes with quite particularity the existence of an agent who meets in many ways the descriptions of Hiss.

Now some commentators along the way have suggested, well, no, the telegram really doesn’t easily apply to Hiss. It could just as easily apply to Foote. Well, I just don’t see how you can read the telegram, the dispatch, and come up with that conclusion.

First, the dispatch states that the ALES agent has been working for the Soviets since 1935. That’s about the time that Hiss started working. There’s no evidence -- absolutely no evidence -- that Wilder Foote started working for the Soviets in 1935. There’s not even any evidence that Wilder Foote worked for the Soviets at all. Absent the hypothesis that he might have been ALES and that he accomplished Stettinius to Moscow and Yalta. But Hiss did start working for the Soviets in 1935. Hiss was involved with a GRU group -- that’s in the Venona cable -- and Hiss was involved with a GRU group, not a KGB or NKVD group. The group

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Alger Hiss and History, Inaugural Conference, April 5, 2007
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“Hiss and History”

consisted mainly of Hiss’s relatives. It did. The group that Hiss was operating was a parallel apparatus created because of the belief on the part of the Soviets that Hiss would have access to military information when he went to work with the Nye Committee. When he transferred to the State Department, the hope was that he would still have access to information.

The cable says, however, that although he works for the State Department, “the bank,” the neighbors are not particularly interested in that sort of diplomatic issue. They’re interested mainly in military issues. Now this might suggest that Hiss wasn’t particularly being a very effective agent in some ways because he didn’t have access to the right documents, but it certainly suggests, it certainly parallels Hiss’s career, and then finally, something that wasn’t mentioned earlier, that there’s another document that talks about a connection, Pavel Fitin, the Director of Moscow Intelligence, is sent a cable asking that Harold Glasser, a person who once a member of Hiss’s group and was transferred into another group, be given a medal, an Order of the Red Star, because the early members of Hiss’s group were given Orders of the Red Star.

The group is described in exactly the same way as the other cable, that is a small group of people who do military intelligence. Glasser was transferred out of that group so he didn’t get a chance, and then finally there is the meeting with the distinguished Soviet personage who personally thanked ALES for his work. We don’t know precisely who that is. The cable suggests it was Andrei Vyshinski, but it might have been someone else, and it probably did occur at the Bolshoi Ballet convention that was earlier described. But Hiss was on that list. Maybe

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“Hiss and History”

Wilder Foote was added to the list at the last minute, but Hiss was there all along. So in short, Hiss fits the ALES cable in every particular and Foote only fits it in one. But even so, let's assume I'm wrong. Let's assume that Wilder Foote was ALES, this is part of a thread strategy that unreconstructed defenders of Hiss employ with respect to the case, which is if you take a little piece of evidence involving the Hiss Case and you show that that evidence doesn't hold up, you show, for example, that the FBI played a part in constructing this deception by Hede Massing, whereas that was previously not acknowledged, if you show this little piece of evidence isn't fully supportive of Hiss, then the whole case crumbles.

But in fact the case rests on all kinds of evidence. There's additional evidence identifying Hiss as ALES. There's evidence from the Mitrokhin archive. You have to assume that somehow the evidence in the Mitrokhin archive is wrong or made-up. Why would someone make it up? There's the fact that in the cyrillic alphabet, ALES is a contraction of Alger Hiss. Is it a contraction of Wilder Foote?

I don't want to downplay the interest and devotion of those who want to defend Hiss's name and reputation, and try their best to prove that he was the victim rather than the instigator, but picking apart one little piece of evidence doesn't make the entire case collapse. I respectfully disagree with Timothy that the case is really -- as he would put it -- a pyramid, but really a house of cards so that if you take the house one card away the whole thing will plummet. The case is

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“Hiss and History”

built on a lot of different evidence over time in a lot of different kinds of sources, many of whom had no reason to know of one another and many of which corroborate each other.

I want to conclude --by talking a little bit about another theme that has emerged, and that's the inaccuracy, the potential inaccuracy, of archival records or the ability of people in government to manipulate information to their advantage. I don't want this conference to end with people having the impression that there is a radical dichotomy between the purity of archival information at its core and the disinterested explorations of scholars on the one hand and the sinister Machiavellian manipulative tactics of government officials on the other.

In fact, as anyone who has worked with archives knows, archives are messy and complicated and one can never be sure that one is getting a complete picture. One can never be sure particularly with the archives of intelligence agencies that what one is getting is real information, varnished information, or highly selected and expurgated information.

So I don't think we can simply say that because this document has been found in this archival collection or the fact that these documents are not in a collection is evidence that cuts in one direction. If for example you were running an agent and you were collecting archival materials with respect to the running of agents generally, why would you want to maintain that information in a place where members of the public could have access to it? In fact, if you had a highly-placed, secret agent, wouldn't you want to go to great lengths to conceal the identity of

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Alger Hiss and History, Inaugural Conference, April 5, 2007
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“Hiss and History”

that agent? So the fact that information about Hiss or Chambers turns up or doesn't turn up in Soviet archives -- I don't think we should treat that as unvarnished real information.

And then finally, it is not as if scholars, including myself, who approach the Hiss Case, approach it from a posture of complete disinterestedness. People write, they have their agenda for writing, they have their hypotheses, they believe in the hypotheses. They're looking for evidence that confirms the hypotheses. If they find evidence that doesn't confirm the hypotheses, they maybe inclined to minimize that evidence, try to explain it away. There's a big difference of course between dishonest scholarship and scholarship that is argumentative for a point of view or argues that we should interpret evidence in the point of view.

But it is not as if the people enlisted in this case are capable of going out and finding the truth in a way that let's say people who involved in the repositories themselves are not. If the FBI had its agenda with respect to Hiss at a particular time, historians have their own agenda with respect to Hiss at another time.

The very last point that I want to make circles back to the relationship between what you might call the personal and social or political dimensions of the Hiss Case. At one level, the Hiss Case is from my point of view a personal tragedy. It's the exposure of a person who betrayed the institutions with whom he worked, his close friends, his lawyers, members of his family, and all of you that continue to believe in him. And that's betrayal on a quite grand scale. And that

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“Hiss and History”

makes for me in the summing up of Alger Hiss to come down on the negative side of his character.

The other dimensions of the case, however, are much more dependent on where we stand and where we come from with respect to our own contemporary politics and ideology, and what I would urge you to try to do is to see if you can separate those two, that is to say, to come to rest on a view of Alger Hiss which is not particularly attractive, that doesn't force you to believe that therefore all the people that tried to prosecute Hiss or stood against Hiss, need to be endorsed, or that you need to believe in Joseph McCarthy and the excesses of the Cold War. You can retain, indeed, I think a view that many people coming out of the thirties as Hiss did were genuinely sympathetic to collectivism, even communism, on very good grounds -- admirable grounds -- and were if anything shocked and disillusioned and then were made in a later climate to fall all over themselves to explain their positions.

That may be a great unfairness, but I urge you to separate that from the particular narrative of the life of Alger Hiss. Thank you.