

ARTICLE APPEARED  
ON PAGE 10HUMAN EVENTS  
29 December 1985

# Will Anti-Intelligence' Get Key ACLU Post?

The American Civil Liberties Union has a personnel problem with national security implications. The director of its national office in Washington, John H. F. Shattuck, has resigned to accept an administrative post at Harvard. The ACLU's search for a replacement—which began in June—has been complicated by the facts that (a) the group has a self-imposed affirmative action requirement that it search for a minority replacement before considering appointment of a white successor to Shattuck, and (b) the ACLU leadership from which a successor would most naturally be chosen is lily-white.

In mid-September, with only two applications for the job filed, both from whites, Executive Director Ira Glasser said up to 10 minority candidates would be asked to apply and, if none had been chosen by the time of an October 20 board meeting, the board would be asked to drop the affirmative action rule. This, according to the *Washington Post*, would virtually pave the way for the selection of Morton Halperin, "highly regarded by virtually all of the ACLU hierarchy," as successor to Shattuck. October 20 came and went, however, with no decision made.

**Will a minority person be found to fill the post? Or will Halperin, waiting expectantly in the wings, get the nod? More importantly, would Halperin's appointment be good or bad news?**

It would appear to be good news. In the extensive publicity Halperin has received in recent years, he has usually been identified as a deputy assistant secretary of defense in the Johnson Administration and key aide to National Security Adviser Henry Kissinger, as a senior staff member of the National Security Council (NSC), in the early days of the Nixon Administration.

Additionally, Halperin has made numerous congressional and court appearances as a reputed expert on the classification of sensitive government documents, intelligence, and other national security issues.

In one of his many appearances before the House Intelligence Committee, Halperin said in 1978 that "in the spirit of full disclosure," he wanted to make three statements for the record:

- As a graduate student, he had applied for a job with the CIA.
- As a freelance journalist, he had used the CIA as an information source.
- As a lecturer, he had appeared at CIA headquarters on invitation of the agency and had been paid for his services.

Seemingly, more good news. Not at all a typical ACLU type. But Halperin then proceeded to attack the CIA for, among other things, its handling of the news about the December 1975 murder of Richard Welch, CIA station chief in Athens, after *CounterSpy* had identified Welch as a CIA intelligence officer.

Halperin accused the agency of waging a "disinformation" campaign against the American public by ascribing guilt for the killing to renegade CIA officer Philip Agee and the magazine *CounterSpy*, then Agee's principal weapon in his continuing campaign to expose covert U.S. intelligence personnel, particularly those serving in foreign lands.

He also tried to absolve Agee, the self-proclaimed "revolutionary Socialist," of all blame in the killing by saying he did not think *CounterSpy's* exposure played "any role" in Welch's assassination and by asserting of all those

Continued

who expose the identities of secret American intelligence personnel, "it is difficult to condemn people who do that."

Halperin has also called the CIA "the subverter of everybody else's freedom" and declared it is "an open question" whether it and other U.S. intelligence services would turn to assassinating American citizens.

So perhaps the choice of Halperin would not be a good thing after all. Possibly, he is not quite the person his past government posts would indicate he is. In an effort to clarify what his selection would mean, should he be chosen, and what the high esteem of virtually the entire ACLU leadership for Halperin reveals about the ACLU, the following information supplementing Halperin's "confession" about his CIA past is offered in his "spirit of full disclosure."

#### **Halperin-Agee Connection**

Halperin's intelligence committee testimony is not the full extent of the assistance he has given CIA defector

Agee. A few years ago, in upholding the government's right to lift Agee's passport, the Supreme Court reviewed some of the well-publicized facts about Agee that should be kept in mind as Halperin's generosity toward him is retold:

- At a 1974 London press conference, Agee announced his "campaign to fight the United States CIA wherever it is operating" and his intention "to expose CIA officers and agents and... drive them out of the countries where they are operating" while, in the U.S., he worked "to have the CIA abolished" (Agee's words).

- A federal district court had found on Agee's part "a clear intention to reveal classified information and to bring harm to the agency and its personnel."

- Agee's exposures "have been followed by... violence against the persons and organizations identified." In 1974, prior to the Welch murder, Agee's chief collaborator exposed CIA personnel in Jamaica at a press conference there. Within a few days, the home of the CIA station chief was raked with automatic gunfire and gunfire also erupted when police challenged men approaching the home of another identified CIA officer.

- Reviewing these and other facts, the Supreme Court found that Agee's activities not only presented "a serious danger to American officials abroad and serious danger to the national security," but also "endangered the interests of countries other than the United States — thereby creating serious problems for American foreign relations and foreign policy."

The above facts and findings give special meaning to Halperin's additional actions in Agee's behalf:

Halperin favorably reviewed Agee's first book, *Inside the Company: A CIA Diary*, in 1975 without revealing that, in his introduction, Agee thanked the Cuban Communist party for the help it had given him in writing the book and that it contained the names and identities of over 700 people in all parts of the world Agee claimed were CIA officers, agents and cooperators. Giving full credence to Agee's claims against the CIA, Halperin wrote:

"The only way to stop all of this is to dissolve the CIA covert career service and to bar the CIA from at least developing and allied nations." (Sic.)

One of the early activities of *CounterSpy's* publisher, the Organizing Committee for a Fifth Estate, was the creation of another intelligence-undermining group called the Public Education Project on the Intelligence Community (PEPIC). Halperin served on PEPIC's speaker's bureau.

Agee was in hot water after the assassination of Richard Welch. He was afraid to return to the U.S. and he was being expelled from one European country after another because of his continuing contacts with Communist-bloc intelligence agents. Halperin traveled to London early in 1977 in an unsuccessful attempt to prevent Agee's deportation from England. While there, he said he hoped to arrange a U.S. speaking tour for Agee if he returned to this country.

Agee's second book, *Dirty Work: The CIA in Western Europe*, reprinted an anti-CIA, pro-*CounterSpy* article, "CIA News Management," Halperin had written for the *Washington Post*.

Halperin has testified against all bills that would criminalize Agee's activities in exposing the identities of U.S. intelligence personnel, including the one finally enacted in 1982.

Continued

m

### Halperin and the Marchetti-Marks 'Cult'

Agee is not the only U.S. intelligence detractor and exposé who has had Halperin's help. Victor Marchetti, a veteran of 14 years of CIA service — the last three in highly sensitive positions — resigned in 1969 and decided to write a book exposing CIA operations. The CIA learned of his plan and, based on numerous secrecy agreements he had signed while with the agency, obtained a temporary court injunction on publication.

Marchetti, represented by the ACLU, then went to court to challenge the CIA's right to protect national secrets from disclosure by former employees. Halperin appeared as an expert witness in his behalf, but Marchetti lost his case. The court upheld the validity of the CIA secrecy pledge and issued a permanent injunction on Marchetti's publishing anything on the agency without first obtaining its clearance. An appellate court upheld this decision and, at the end of 1972, the Supreme Court refused to review its ruling.

Marchetti then obtained the help of John Marks, a former employe of the State Department's Bureau of Intelligence and Research, in writing his book. An associate of Halperin in a number of his anti-intelligence enterprises, Marks, too, later had the distinction of having Agee publish one of his articles in *Dirty Work*, an item entitled "How to Spot a Spook."

The CIA demanded the deletion of over 300 passages in their finished product, *The CIA and the Cult of Intelligence*. By the time Marchetti-Marks went to court to fight the CIA on the issue, again with the help of expert witness Morton Halperin, the agency had reduced its demands by about half — but the judge still ruled against it on a great majority of the remaining deletions demanded.

Based largely on Halperin's testimony, he adopted a different standard in determining valid classification than he had used in the original trial. The government appealed and his decision was reversed, with the Supreme Court again refusing to review the appellate court ruling. This was not what Halperin wanted, but it was a victory for the CIA and U.S. security.

Had Halperin had his way, the 1974 "Cult" would have spilled much more than it did about the CIA.

### Halperin and the Spy

David Truong, who had come to the U.S. from Vietnam in 1965, had become a well-known antiwar activist and "agent of influence" after completing his studies and by the time he and Ronald Humphrey were indicted for espionage in January 1978.

Associated initially with the Vietnam Resource Center in the Boston area and later with the Vietnamese-American Reconciliation Center which he set up in Washington after the war, Truong wrote newspaper and magazine articles, gave speeches, published literature and heavily lobbied Capitol Hill where he wielded considerable influence on Vietnamese issues over the more liberal and left-wing members of the House and Senate and their staffs.

The indictment charged that Humphrey, a USIA officer, had been taking classified documents and turning them over to Truong who, through couriers, had been delivering them to Communist Vietnamese officials. The Truong-Humphrey defense strategy was to claim that they could not be guilty of espionage because the documents Humphrey had given Truong were really not sensitive, contained mere diplomatic chit-chat, and could not harm the U.S.

Halperin, a witness for their defense, expressed doubt that some of the stolen papers had been properly classified, said others were in no way related to the national defense and that "no information" in cables given to the Communists "could injure the United States or be advantageous to the Vietnamese." Military intelligence and diplomatic officials contradicted Halperin's view.

Despite Halperin's testimony, both men were convicted and began serving their 15-year prison terms in January 1982 after an appeals court had upheld their convictions and the Supreme Court refused to review its decision.

Continued

Truong was free on \$250,000 bond in February 1979 pending the outcome of his appeal when a group Halperin headed, the Campaign for Political Rights, staged a party in Washington to celebrate the release of *The Intelligence Network*, a propaganda "documentary" film against the CIA, FBI and other U.S. intelligence agencies in which Halperin had an important role. Truong attended the party and Halperin, smiling, posed for a press photo with the convicted spy.

### **Halperin and the Ellsberg-Russo Defense**

In 1971, Daniel Ellsberg and Anthony Russo, both former employes of the Defense Department and its think tank, the Rand Corp., admitted they had unlawfully copied a two-and-a-half-million-word "Top Secret — Sensitive" report on the U.S. role in Vietnam and leaked it to the *New York Times* and other newspapers which published excerpts of the document while the U.S. was still fighting in Vietnam.

Former President Lyndon Johnson termed the leak "close to treason" and Gen. Lyman L. Lemnitzer, chairman of the Joint Chiefs of Staff during our early involvement in Vietnam and later supreme commander of NATO, said the leak was "a traitorous act." The Supreme Court denied the government's request for an injunction on publication of the material, but a majority of its members expressed grave concern about the leak in doing so. Justice White, for example, had noted in his opinion that "a massive breakdown in security is known."

Ellsberg and Russo were indicted on charges of espionage, theft of government property and conspiracy. The Left rushed to their defense. Leonard Boudin, father of convicted terrorist-murderer Kathy, became Ellsberg's defense counsel and Leonard Weinglass, his associate in the National Lawyers Guild and a leader of the revolutionary Center for Constitutional Rights, became Russo's.

A defense team of some 35 people — experts of various types, as well as attorneys — was assembled with Halperin its reported "chief of staff." He took leave from a position in Washington to spend five months in Los Angeles working on their defense and testifying for them.

Contradicting the testimony of high-ranking military officers, Halperin testified that the "Pentagon Papers," as they had become known, would be of little or no value to the enemy; also that they had been classified almost by whim, and were really personal papers belonging to him, Leslie L. Gelb, who had actually directed the study, and Assistant Secretary of Defense Paul C. Warnke, rather than government documents. It was routine, he claimed, for officials such as they to take their personal papers with them when they left

office and that this was not considered theft or a violation of security regulations.

The prosecution, however, introduced two contrary affidavits signed by Halperin. In one, executed prior to his Defense Department employment, he had promised to return all classified documents when his employment ended and in the other, signed when he left the NSC in 1969, he asserted that he did not have in his possession, custody or control, any classified information or documents relating to the national defense to which he had obtained access during his employment.

Additionally, an FBI agent who had interviewed Halperin shortly after the leak of the study testified that Halperin had told him then that he had been acting as an agent of the government when he sent one copy of it to the Rand Corp. and that he had given Ellsberg access to the copy in Rand's possession (after twice denying requests for it) even though he was afraid Ellsberg might be "indiscreet" and make parts of it public.

Gelb, contradicting Halperin, told reporters that he considered the study to be "government property," not his, Halperin's or Warnke's personal papers.

The question of the legal guilt of Ellsberg-Russo was never settled. In May 1973, a number of government actions were revealed which the judge classified as misconduct and offensive to justice, making the key problem of separating legitimate from illegitimate evidence against the defendants "well-nigh impossible." He therefore dismissed all charges against the two.

Continued

One of the major reasons for his action was the fact that it was revealed that Ellsberg had been overheard on a warrantless national security wiretap, the records of which could not be found.

The wiretap, it was further revealed, had been on the home phone of Morton H. Halperin. Ellsberg had been overheard on it 15 times because he was Halperin's house guest for a period when the tap was in operation.

Ellsberg and Russo, admitted purloiners of the Pentagon Papers, were not freed for the reasons Halperin desired, but freed they were with his help — in more ways than one.

### *Halperin's Anti-Intelligence Operations*

Why would the government have tapped Halperin?

A Yale Ph.D. in international relations who failed the Foreign Service exam, Halperin was associated with Harvard's Center for International Affairs for six years, serving as an instructor for two, an assistant professor for two and producing half-a-dozen studies, all related to disarmament. The title of one, "A Proposal for a Ban on the Use of Nuclear Weapons," indicates the basic theme of all.

In 1967 he got a job as a special assistant to an assistant secretary of defense and, during the last two years of the Johnson Administration, became Deputy Assistant Secretary of Defense (Plans and Arms Control) under Assistant Secretary for International Security Affairs Paul Warnke.

Halperin knew Henry Kissinger at Harvard and lectured at his national security seminars there. It was after their last joint appearance at such a seminar in December 1968 that Kissinger asked Halperin to serve on the staff of the National Security Council which Kissinger was to head in the Nixon Administration.

An opponent of U.S. policy in Vietnam and other areas, Halperin nevertheless agreed to do so — but resigned his NSC post in September 1969 when it became clear to him that the Administration was not ready to cut and run from the Vietnam War. At Kissinger's request, Halperin agreed to remain as a consultant to the NSC, but severed that tie, too, in May 1970 in protest against the U.S. move into the Vietcong-North Vietnamese sanctuaries in Cambodia.

Halperin then became a senior fellow at the Brookings Institution in Washington, an aide to Sen. Edmund Muskie and consultant to the intergovernmental relations subcommittee of the Senate Government Operations Committee which Muskie chaired. He also directed a Twentieth Century Fund study of government security classification practices and testified on that subject for the Muskie subcommittee as well as a House subcommittee and served as a political consultant for Sen. George McGovern in his 1972 presidential campaign.

Halperin's views were so far out when he was at the Defense Department that he argued that, even when the U.S. was fighting North Vietnamese forces in South Vietnam, reconnaissance (intelligence) flights over North Vietnam were of no value. Nevertheless, he was given at least partial credit for turning Secretary of Defense Clark Clifford against the war.

His first assignment for the Nixon Administration was production of an improved foreign policy decision-making procedure, one that would revitalize the NSC, be centered in the White House and give the President the full range of options available on all issues. Halperin's proposal called for denying the NSC the advantage of the latest and best U.S. intelligence as it considered major policy problems. CIA Director Richard Helms learned about the proposal before it was implemented and succeeded in having it killed.

A court has noted that Halperin concentrated on antiwar activities after resigning from the NSC. True, but he also concentrated on anti-intelligence activities — and to such an extent that, if anyone in this country deserves the title, "Mr. Anti-Intelligence," it is Halperin.

In 1970, the ACLU decided to undertake a nationwide drive against U.S. intelligence agencies and operations. That same year, it created the Committee for Public Justice (CPJ) to spearhead the drive against the FBI and Department of Justice. The CPJ was headed by playwright Lillian Hellman, the unrepentant "ex"-Communist and whitewasher of the CP who, when she died recently, left part of her \$4-million

Continued

estate for the establishment of a fund for Communist writers. Halperin has served on CPJ's executive council, newsletter committee and written for its newsletter.

Early in 1974, the ACLU Foundation and the Fund for Peace jointly set up in Washington the Center for National Security Studies (CNSS) as the research, information and documentation center for its national anti-intelligence campaign. Its first director was Robert Borosage of the Marxist think tank, the Institute for Policy Studies (IPS). He soon returned to the IPS, however, and Halperin succeeded him as director of the CNSS, a post he has held ever since.

The ACLU next created a Project on National Security and Civil Liberties as the litigating arm of its anti-intelligence campaign. Halperin became — and remains — the director of that project.

In 1975, still another instrument was created, a monthly, *First Principles*, to serve as a news, propaganda and agitation weapon for the campaign. Halperin became its chief editorial writer. Technically, it is published by the CNSS, which Halperin directs.

Something more was needed to round out the ACLU anti-security operation — a nationwide coalition or “united front” of anti-intelligence groups to exert political pressure on both the local and national levels.

Borosage, supported by the IPS, ACLU, CNSS and the Communist National Lawyers Guild, set about organizing one in 1976. It emerged in 1977 as the Campaign to Stop Government Spying, with almost 50 member and cooperating groups. Halperin emerged as its chairperson and it soon began publishing a monthly, *Organizing Notes*, very similar in format and style to Halperin's *First Principles*.

In late 1978, the “Stop Government Spying” group changed its name to the more palatable “Campaign for Political Rights” (CPR). CPR member groups included a number of officially cited Communist fronts, as well as *CounterSpy* and its successor, *Covert Action Information Bulletin*, in addi-

tion to many radical and revolutionary groups (and some church-affiliated organizations).

Halperin, as CNSS director, has filed numerous FOIA (Freedom of Information Act) requests in efforts to pry secrets out of the files of the CIA, NSA, DIA, FBI, National Security Council and other U.S. intelligence-security agencies. He has followed many of them up with lawsuits, and has encouraged others to do the same. He has followed the same course in the field of constitutional torts, suing for huge sums for alleged constitutional violations on the part of intelligence agencies and officials in the course of carrying out their information-gathering duties and has sought bans on their intelligence operations.

Representing the CNSS and ACLU, Halperin has testified *against* virtually every bill introduced in the last decade to improve or strengthen American intelligence and *for* every bill that would have the opposite effect. It is doubtful that anyone in the nation — including the highest intelligence officials — have testified before Congress as frequently as he has on such national security issues.

Most depressing is the fact that, despite the consistency of his words and actions during the past 10 years, members of Congress — particularly some on the Senate and House intelligence committees — have invariably lavished praise and gratitude on him for his performances.

Halperin would strip the intelligence agencies of the weapon which the courts, Congress and the executive have found to be essential to the achievement of their mission — secrecy. He would make public their budgets, ties with academics and other sources, control of proprietaries, etc. He would go so far as to compel disclosure not only of diplomatic negotiations, but all research on new weapons systems (such as the supersecret Manhattan Project which developed the A-bomb during World War II, saving untold numbers of American lives) and would even oppose CIA covert action taken to prevent Li-

Continued

byan dictator Muammar Qaddafi from sneaking nuclear weapons into New York harbor. All covert action by the CIA and other agencies would be brought to a halt.

The FBI, if Halperin had his way, would not be allowed to investigate anything but crime. All domestic intelligence collection would cease — by law. All wiretapping, too, would be brought to a halt, even that used to catch spies and learn the intentions, plans and plots of nations hostile to this country.

### **The Halperin Wiretap and Lawsuit**

The U.S. government, however, did not tap Halperin's phone for any of these actions or beliefs, but for other reasons.

The Nixon Administration, like its predecessors, was plagued by a series of damaging national security leaks.

In April 1969, the President met with Kissinger, Atty. Gen. John Mitchell and FBI Director J. Edgar Hoover to consider what steps could be taken to stop them. Based on the practices of past administrations, Hoover recommended wiretaps as one means — and his proposal was accepted. Criteria for determining who would be tapped in the event of future leaks — including access to the leaked information and adverse information in FBI files — were agreed upon.

A May 9, 1969, New York *Times* account by William Beecher of the secret U.S. bombing of parts of Cambodia so disturbed the President that he had Kissinger call Hoover from Key Biscayne (where both were on a working vacation) and tell him to do everything possible to uncover the leaker. The President later deposed in court that this leak was "directly responsible for the deaths of thousands of Americans." He explained that Prince Sihanouk of Cambodia could agree to the bombing as long as it was secret but, for internal political reasons, could not do so once it became known. The leak thus forced

a halt to the bombing and guaranteed the enemy a safe haven from which they could attack American troops and then escape to safety.

Hoover told Kissinger that Halperin was a prime leak suspect and placed a tap on his phone that day. Not one of the very few authorized to know of the secret bombing, Halperin had nevertheless learned of it through a conversational slip on Kissinger's part.

Initially, the tap produced no evidence of Halperin leaking information and, within a month of its installation, FBI intelligence chief William Sullivan recommended that it be discontinued. Kissinger asked that it be continued for another two weeks to "establish a pattern of innocence" on Halperin's part.

That was done and the tap was actually continued in effect until Feb. 12, 1971 (about 16 months after Halperin left the NSC) without the periodic 18-month review process required by the Administration's own regulations governing warrantless national security wiretaps. As noted, the fact of the tap was revealed in May 1973 during the Ellsberg-Russo trial.

Represented by six ACLU attorneys, Halperin and his family, on June 14, 1973, filed suit against Nixon, Kissinger, Mitchell, and a number of other White House, Justice Department and FBI officials, charging violation of their constitutional rights. In December 1976, the trial judge held that the original installation of the tap was constitutional but that its continuance for so long in violation of the Administration's own regulations violated Halperin's rights. He awarded Halperin \$5 in nominal damages against the three remaining defendants in the case — Nixon, Mitchell, and former White House Chief of Staff H. R. Haldeman.

The government fought this decision vigorously, realizing that if the ruling stood, the President — from the viewpoint of protecting the national security — would be turned into an ineffective wimp.

It was eventually resolved in June 1982 when the Supreme Court ruled in

Continued

two similar cases that the President, while acting in the scope of his authority, enjoys absolute immunity from suit for damages, even if he should break a law or violate a citizen's rights. His top governmental aides, on the other hand, have only qualified immunity in such instances.

Halperin's suit, of course, meant not only the taking of testimony but the filing with the court of numerous depositions and affidavits by Nixon, Mitchell, Kissinger and other defendants and witnesses, as well as the submission of FBI file material and briefs by the Justice Department which contained statements of fact as well as legal arguments.

All this material did not resolve the question of the Cambodian bombing leak, but it did shed interesting light on Morton Halperin as a servant of the government and the people, and why the Carter Administration took the position that continuance of the tap for so long a period was justified.

Among the lawsuit revelations (words in quotes, followed by the letter "B," indicate a quotation from a major brief filed with the court of appeals by the Carter Justice Department in May 1978):

- Kissinger had hired Halperin for the NSC over the objections of J. Edgar Hoover, the chairman of the Joint Chiefs of Staff, the security officer of the NSC, Sen. Barry Goldwater and White House Chief of Staff H. R. Haldeman.

- Hoover objected to Halperin's employment in part because, when applying for official access to sensitive information as a Defense Department employe, he had failed to reveal visits to the Soviet Union, Yugoslavia and Greece, as well as conversations with Soviet citizens.

- Even before the Cambodia leak, Hoover "had apparently already made the determination that Dr. Halperin was a potential security risk." — B.

- Within a month of the time Sullivan, the FBI intelligence official, had recommended discontinuance of the Halperin wiretap, he reported in a memo to Hoover:

"As we know, Halperin cannot be trusted. We have learned enough already from the early coverage of him to conclude this. Since . . . Halperin has said almost nothing on the telephone, my guess is that he assumes it is tapped." — B. (On the day the tap was installed, Kissinger warned Halperin that he was suspected of leaking highly sensitive information to the *New York Times*. "This warning may have placed Dr. Halperin on notice as to any government efforts to identify the source of the leaks." — B.)

- The wiretap revealed Halperin making "revelations on the North Vietnamese position [Oct. 24, 1969, summary], differing internal recommendations of the Secretaries of State and Defense and the Attorney General as to Cambodia [May 4, 1970 summary], his plan to meet with the representatives of a German news magazine about the National Security Council [Oct. 13, 1970, summary], and a planned meeting with a representative of the Soviet Union's *Pravda* [Sept. 30, 1969, summary]" — B.

- Kissinger had explicitly instructed Halperin not to talk to journalists, but Halperin had repeatedly violated this instruction. In September 1969, Halperin told Kissinger, "I haven't talked to the press . . . since May." The record, however, revealed that during this period he had received calls from, conversed with, and met a "variety" of journalists — B.

- In the Carter Administration's view, Halperin's "poor judgment" in "relating what was being considered in the [National Security] Council is, perhaps, best reflected" in the May 13, 1969, wiretap summary and the logs on which it was based — B (the brief did not reveal, however, the revelations Halperin made on that date, or to whom he made them).

- Two weeks after the tap was installed, Halperin (still with the NSC) called his wife and told her that Henry Brandon, Washington correspondent for the London *Sunday Times*, would be coming to their home that night. Brandon was suspected by the FBI of being an agent of an East European intelligence agency and was one of the newsmen tapped after the Cambodia bombing leak. A few days later, on May 27, 1969, Brandon called Halperin, referred to their talk about peace the other night, and asked Halperin's

Continued



help in finding a 1961 Dean Rusk cable on Vietnam advisers.

- Halperin was a subscriber to the international Communist magazine, the *World Marxist Review/Problems of Peace and Socialism*.

- A Sept. 3, 1969, Hoover report to the White House noted that Daniel Ellsberg, a recent Halperin house guest, had been overheard referring in a telephone conversation with another person to "a satchel filled with 'stuff' at his friend's house." (The meaning of "stuff" was not certain because Ellsberg, in addition to being a purloiner of classified documents, was also a suspected drug user.)

- Halperin, when he left the Defense Department, "retained access to and control over many classified documents which he took upon his leaving" — B.

- When he left the NSC, Halperin "managed to cart off boxes of highly classified material without the National Security Council's permission or knowledge" — B.

- He turned this material over to the Rand Corp. and, in doing so, "reserved unto himself full control of distribution and use of the documents" — B. After he left the NSC, having continued access to this material, he reviewed it "on several occasions" — B. When he later turned the material over to the Archives without NSC permission, he continued to maintain control over it.

- The government could not act immediately to resolve the security problem presented by numerous sensitive documents being beyond its, and under Halperin's, control because retrieval "would have disclosed the existence of the tap" — R.

The preceding does not include all relevant information in Halperin's background, but it is sufficient to indicate his basic characteristics and leanings and also the nature of a group whose leadership would hold him in such high esteem that it would employ him in key posts for years, and also consider advancing him to one of the top posts in the organization, even if this could be accomplished only by abandonment of a basic fairness policy.

When past ACLU actions are considered, however, there is no surprise in this. Shortly after it launched its nationwide anti-intelligence drive in 1970, the ACLU decided it needed someone to direct the research necessary for the undertaking. Whom did it pick for this important position?

Frank Donner, a Yale law professor identified by three witnesses as a member of a secret Communist cell in the NLRB (National Labor Relations Board) while employed as a lawyer in that agency during World War II and a man who had invoked the 5th Amendment when questioned about his party membership in 1956 and 1959 congressional appearances.

A long-time member and official of the National Lawyers Guild, Donner was one of those selected to help defend Morton Sobell, who was convicted of espionage with the Rosenbergs, and also 21 U.S. employes of the U.N. who were fired in 1953 following an investigation of Communist infiltration of the U.N. staff.

Donner was for years so active in such matters that he was one of 43 Guild members whose biographies were included in the 1959 congressional report, "Communist Legal Subversion: The Role of the Communist Lawyer" to illustrate the subtitle of that document. Though he testified in 1959 that he was not a current member of the CP, he had recently been appointed general counsel of the UE (United Electrical Workers), a union expelled from the CIO as Communist and so vigorously Red it would never hire anyone who had actually turned against the CP and Moscow.

More recently, Donner has served on the advisory board of *CounterSpy* and as a member of the speaker's panel of its offshoot, PEPIC.

Again, however, there was nothing surprising in the ACLU's selection of Donner, if one is familiar with its history.

Formed in 1920, the ACLU became an open collaborator with and defender of the CP and the Soviet Union, with the result that it was branded a Communist front by various agencies in the '20s and '30s. Its founder and continuing leader proclaimed in 1935 that "Communism is the goal."

Open Communist party leaders such as William Z. Foster and Elizabeth G. Flynn (both later party chairmen) served on its board, as did notorious fellow travelers and a number of secret party members. CP leader Earl Browder

testified in 1939 that the ACLU was a "transmission belt" of the CP, i.e., a group through which the party disseminated its line to non-Communists.

The Stalin-Hitler pact forced the ACLU to take a partial anti-Communist stand in 1940. By a slim, one-vote margin it adopted a resolution that no member of a political organization that supported foreign totalitarian powers could serve on its staff or governing committees — and ousted the open Communist, Elizabeth Flynn, from its executive board (Foster had earlier routinely resigned). CP members and officials, however, remained eligible for ACLU membership.

The post-World War II period witnessed a battle between genuine civil libertarians and Communists and their fellow travelers for control of the ACLU, with the former winning for a period in the early '50s. In time, however, they lost out as the ACLU became more and more radicalized and leftist. In 1967, it rescinded its 1940 "anti-Communist" resolution and, in 1976, its expulsion of Flynn (who had meanwhile died in, and been buried in, Moscow). By these two actions it proclaimed, in effect, that even world Communist leaders are genuinely committed to civil liberties as defined in the U.S. Constitution and fully qualified to govern an organization dedicated to them. In a political sense, this was the ultimate obscenity — but hardly surprising, coming from the ACLU.

For at least 20 years now, the ACLU's public record has more and

more convincingly documented its abandonment of its proclaimed commitment to civil liberties as defined in the Constitution. It and its sub-units and/or its highest-ranking national leaders have repeatedly gone to the defense of terrorists, stooges of the KGB, Communists, and revolutionary destroyers of all types — including those in foreign lands.

At the same time, the ACLU has seen fit to attack the Supreme Court and every U.S. administration for some alleged civil liberties offense or other.

In the long run, the basic purpose of the CIA, NSA, DIA, FBI and other U.S. intelligence agencies is the protection of American civil liberties. Yet the ACLU has seen fit to launch a massive, many-faceted and concerted campaign against them, doing everything possible to so weaken and cripple them that, if its goal were fulfilled, they could not possibly carry out this most important constitutional mission.

Halperin, eagerly waiting in the wings, according to accounts, may or may not get the post of director of the ACLU's influential Washington office. If he gets it, it clearly won't be good news. But if he does not get it, it won't be good news, either — because the ACLU will surely select in his stead someone else its leaders hold in high regard, someone else who shares the ACLU view of civil liberties, of U.S. intelligence agencies and U.S. security.

Halperin may be a problem. But it is the ACLU that is the bigger — and main — problem. ■