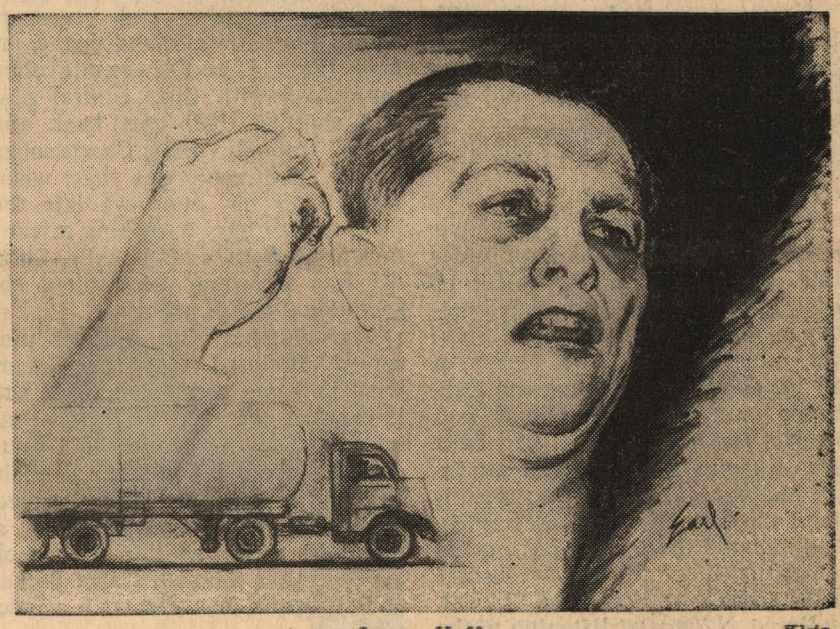
The First Full Account of a Fateful Trial Raises This Disturbing Question: Can Jungle Warfare Subvert American Justice?

THE HOFFA TRIAL . . . . Fred J. Cook

On the late afternoon and evening of February 6, 1964, James R. Hoffa and several of his attorneys were sitting in Room 914 of the Patten Hotel in Chattanooga, Tenn. The short, chunky, earthy boss of the Brotherhood of Teamsters was on trial again in Federal Court, accused this time of attempting to fix a jury in a previous trial in Nashville. The case was not going well for Hoffa. Just two days earlier, the government had pulled a startling surprise; it had placed on the stand its star witness, Edward Grady Partin, boss of a Teamster local in Baton Rouge, La., and Hoffa's inseparable companion during the entire course of the Nashville trial from October 22 to late December, 1962. Partin had acquired such status that before the trial ended he had become sergeant-at-arms at Hoffa's door, deciding who should have access to the throne room. Now the government had revealed that Partin, all the time, had been an undercover agent for the FBI and the Justice Department. He had been informing on Hoffa throughout the Nashville trial. And now, in Chattanooga, he had taken the stand, ready to testify that Hoffa had participated actively in the Nashville jury rigging.

Hoffa's attorneys were understandably worried. They wanted to sit down and confer with their client, but they didn't know where they could confer with some assurance of privacy.

From the start of the Chattanooga trial in mid-January, they had all been aware of the hovering shadow of the FBI, had all felt under constant surveillance. Mysterious cars had followed them from their law offices to their homes. There had been strange disturbances on their telephone lines. Even in the privacy of Hoffa's suite, they looked over their shoulders and they hesitated to talk, even in whispers, so convinced were they that the room was bugged.



James Hoffa Klein

Harry Berke, a Chattanooga lawyer for thirty years and chief local defense counsel for Hoffa, later testified about the events of February 6:

> *We had been trying to get a conference with Mr. Hoffa, but we were afraid to discuss the matter of defense and the evidence and so forth in either Mr. Haggerty's room or Mr. Hoffa's room or in fact any other rooms that are rented up there at the hotel. So I suggested that we go, that we just go out maybe and get a drink, a Coca-Cola, somewheres, and sit down and discuss the next day's proceedings.*

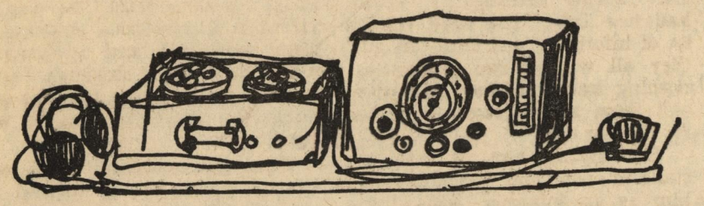
Marvin Berke, Harry Berke's son and law associate, had his car available—a two-tone Pontiac, license 4U-8888. The two Berkes, Hoffa and Morris Shenker, another attorney advising the Hoffa defense, left the hotel and walked toward Marvin Berke's Pontiac. This simple action triggered a wave of surveillance and countersurveillance.

The government, as it later acknowledged, had an aerie in a building across the street, from which it could keep the 11th Street entrance of the Patten Hotel under observation. On the street it had a number of innocent-appearing cars equipped with radios and "phantom" aerials and manned by FBI agents. The building lookout and control post, designated B-2, was in constant communication with the roving cars, identified by numbers.

When Hoffa and his attorneys left the Patten this message flashed:

> *B-2 to 14: They are proceeding to the vehicle now, quite an entourage, will copy.* [This means photograph.]
>
> *B-2 to 14: I don't think you want to go near this vehicle due to its contents (pause), ah, they are ready to pull out in front now and I think the package* [the particular individual being tailed] *you are interested in is, he didn't even get into, uh, three other individuals go in, he is now crossing Market Street,*

Fred J. Cook's The FBI Nobody Knows, *expanded from a special issue of* The Nation, *will be published by Macmillan this spring.*



uh, looks like he is heading over the Rent-a-Car—Avis Rent-a-Car place. . . .

The air continued to crackle with information as the FBI kept its omniscient eye on Hoffa and others in his "entourage." How did the words of FBI agents come to be recorded for posterity? Very simply.

On the FBI Wave Length

Hoffa's attorneys, convinced that they and their witnesses were under FBI surveillance in the midst of trial, had the previous weekend gotten in touch with Bernard B. Spindel, a nationally known expert in all forms of wire tapping and electronic eavesdropping. Spindel had worked for Hoffa before, had even been indicted with him and acquitted in a case brought by the government on the contention that Hoffa had violated the law by having the telephone lines in his Teamsters' office in Detroit monitored. Spindel, in Rome, N.Y., after listening to the description of Hoffa's current plight, agreed to fly to Chattanooga.

He packed and shipped, air freight, about 1,000 pounds of electronic equipment, and on Monday morning, February 3, he caught an American Airlines flight to Nashville. When he landed at the Nashville airport, the FBI, as it later acknowledged, had two agents waiting on the field to shadow him. Since the FBI on its word of honor never tapped a telephone during the entire course of the Hoffa trial, this demonstration of precise advance knowledge must be a clear case of forensic telepathy.

At Nashville, Spindel rented a car and set out for Chattanooga. The FBI, as it later acknowledged, had some eight or ten agents waiting to pick him up at the Chattanooga city line. As Spindel's car passed, they took out after him and trailed him right down to the Patten Hotel, where he vanished into Hoffa's suite.

Spindel quickly determined that the area around the Patten was swarming with FBI agents. He located wave lengths from which exceptionally strong radio signals appeared to be emanating in the vicinity of the hotel. He borrowed a dictating machine and began to record the conversations that came over the air as FBI agents communicated with their control post and shuttled their cars back and forth through the Chattanooga streets. The result was that, when Hoffa and his attorneys left the hotel on February 6, seeking privacy in Marvin Berke's automobile, Spindel was recording the excited observations of FBI agents.

The chitchat that Spindel preserved disclosed that the G-men were in some perplexity about the identity of the men in Hoffa's entourage. They apparently had been on the lookout for Spindel as their special "package," and they argued back and forth about whether a man with a bald spot on the top of his head was Spindel. Harry Berke, as it happens, has just such a bald spot.

Young Berke, on his father's instructions, drove to the West Side Urban Renewal District, "an entirely desolate area" where all the old houses had been torn down and no new building had yet begun. A car followed them; when they slowed down to a snail's pace, so did their shadow. "We stopped when we got to the end of East Ninth Street before making the turn and this car stopped," Harry Berke testified.

They turned back toward town. "This car followed. Now while we were on the way to Main Street we stopped either once or twice and this car stopped." When they got back into the city area, the car that had been trailing them suddenly spurted past them at high speed, and though they tried to follow it, they lost it in traffic.

Back in Spindel's hide-out in the Patten Hotel, the electronic monitoring equipment once more came to life. The watching agents reported the return of the car. The discussion continued whether "the package" had been in the car and about just who had left it. "Well, I'm coming down that way now, just to get a look at it," said one agent, William L. Sheets, who later recalled he'd said the words Spindel recorded.

Other cars and the movement of other members of the Hoffa party distracted the agents and kept the air lively with their comments.

"Say, Bill," the radio squawked at one point, "the two occupants in that car were 'The Man' [Hoffa] and the ex-boxer, O'Brien [Charles 'Chuck' O'Brien, business agent of the union in Chattanooga and a constant associate of Hoffa]."

The action continued:

B-2 to 14 and 23, uh, the ex-fighter just came out with two unidentified WMAs [White Male Americans]. *He got in the car, he is not moving as of yet and the other two individuals separated, walked around the corner, and headed North on Market on foot.*

Twenty-three, you were just photographed. . . . There was a guy standing against the hotel with a camera and as you pulled up to the light, he stepped out behind your car and photographed your plate. The ex-fighter just got out of the car and walked back into the hotel.

The surveillance (it should perhaps be noted at this point that the government later got purple in the face contending it never spied on Hoffa, any of the other defendants, witnesses or lawyers) continued:

. . . As you probably know, the vehicle, uh, the "big boy" [Hoffa] just got back to the hotel, evidently he parked the car.

There are a few fellows that are going in the same direction, so that Mr. Big and, uh, his necessary assistant so I don't think you want to be anywhere around that lot right now. . . . The big guy came out with the entourage and they looked like they all got back. . . .

Out To Get Hoffa

Such was the atmosphere in which James R. Hoffa was tried in Chattanooga. The boss of the Teamsters is one of the most powerful labor leaders in America, and Attorney General Robert Kennedy and the Department of Justice have been contending for years that he is also one of the most unprincipled and most ruthless. Though he had been repeatedly brought to trial on a variety of charges, he had always escaped either by acquittal or a hung jury; and it was no secret that the Attorney General had set up within the Department of Justice a special investigative squad whose energies were devoted largely to the attempt to get Hoffa. Hoffa charged that he was the victim of a "vendetta," and the government itself at times all but acknowledged the charge, claiming the nation must be rid of the evil of Hoffa.

The danger of this attitude is that it rests upon authoritarian judgment, and it raises the question: How far will authority go to vindicate that judgment?

The record of the past indicates that it will go very far indeed. In the postwar era, with disturbing and increasing frequency, the entire weight of the FBI and the Justice Department seems to have been thrown, not into trials, but into campaigns to insure that their firm confidence of guilt would be upheld in the courts. But in Hoffa it encountered for the first time a defendant with resources almost as formidable as its own. Its own espionage and surveillance during trial could be met with counter-espionage and surveillance. The nature of a jungle war violating basic principles of justice could therefore be placed at last on the record.

That is the true significance of the recent trial of Teamster Boss James R. Hoffa in Chattanooga. It far transcends the importance of Hoffa himself. At stake are root principles of American justice—and American democracy.

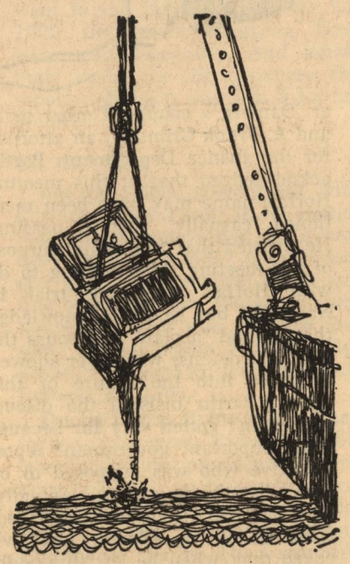
Two Faces of a Spy

The Hoffa case begins and ends with Edward Grady Partin, a ruggedly built, square-jawed man, with slightly wavy, parted hair. He can, on occasion, look sturdily distinguished, and in the light of the great victory scored over Hoffa at Chattanooga, an effort has been made by government officials, aided and abetted by major media of information, to portray Edward Grady Partin as a national hero.

Typical was a recent article in *Life* that pictured the high-minded Partin as having been involved only in some inconsequential brushes with the law when he agreed to become undercover man and informer for the cause of justice. Partin, wrote *Life*, "was in jail because of a minor domestic problem," and had been indicted "on charges of embezzling $1,600 in union funds." It all sounded pretty trivial, and besides, Walter Sheridan, Kennedy's hand-picked head of Justice's special rackets investigative squad, had told *Life*: "I've dealt with a lot of informers, and until this guy, they all wanted two guarantees: nothing traced to them and never call them as witnesses. Ed asked for neither one.

"But asking him to take the stand in open court meant exposing him as an informer, jeopardizing his job—maybe much worse." Yet, said Sheridan, when he put the issue to Partin, he just shrugged and said: "I've come this far. Whatever you say."

The picture of a decent, courageous man helping the cause of justice is heartwarming.



But there is another Edward Grady Partin, so far unperceived by press and public, whose image *Life* might have discovered by a process no more laborious than reading some court testimony and digesting a few old clips. Partin's troubles with the law had a long history and were not what most citizens would call minor. In December, 1943, he and another man were arrested in the state of Washington for breaking into a restaurant. Partin pleaded guilty, and drew a fifteen-year term. He twice broke out of jail. Finally freed, he joined the Marines and was dishonorably discharged.

His more recent entanglements had been so numerous that he had acquired a certain headline notoriety in Louisiana. In November, 1961 (by this time he had been boss of the Teamsters local in Baton Rouge for some years), he was involved in a mysterious shooting. A pistol went off and inflicted a wound in his lower abdomen. Partin insisted to authorities that the gun discharged accidentally as he was handling it.

When this happened, Partin was already the object of official inquiry. Some rebellious members of his local had accused him of embezzling union funds. They also charged that he had gone to Cuba and consulted with a Castro aide. The 600-pound safe, containing all the union's records and books, disappeared from the union hall as if it had legs—a vanishing act that happened before federal auditors arrived upon the scene. The safe, empty, was later recovered from the Amite River.

Partin's principal critics in his local were A. G. Klein, Jr., and J. D. Albin. They testified, with others, before an East Baton Rouge grand jury, and the jury indicted Partin for forging a withdrawal card, a deed that, it was alleged, removed one of his critics from the union. Subsequently, Albin and Klein were set upon by six Teamsters and savagely beaten. Shortly thereafter, Klein was killed when a truck loaded with sand "fell on him" in St. Francisville.

These misadventures aroused official curiosity. A joint probe by the FBI, attorneys of the Justice Department, and District Attorney Sargent Pitcher, of East Baton Rouge, resulted on June 27, 1962, in the indictment of Partin on twenty-six counts, thirteen of falsifying union records, thirteen of embezzlement. He was released in $50,000 bond. Should he ever be convicted and given the maximum sentence on all the counts, he could be fined $260,000 and sentenced to seventy-eight years in prison.

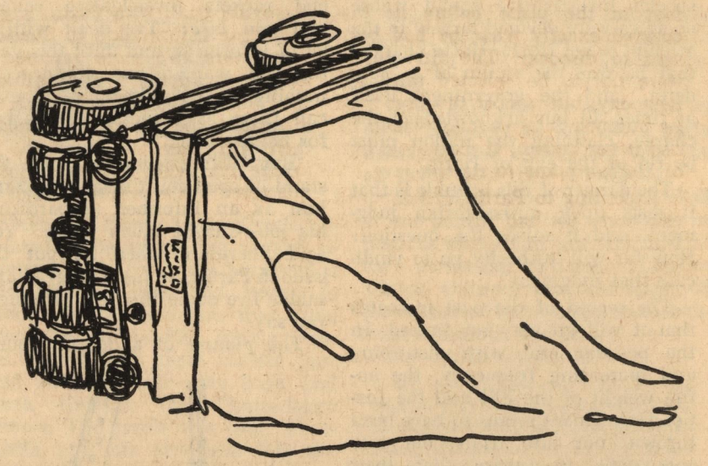
This indictment alone would seem to have removed Partin from *Life's* minor-offender class, but there was more to come. On August 14, 1962, he was named defendant in the first of a series of accident suits that were eventually to total $400,000. This first suit was filed by Airman Leo D. Paris, of Haverhill, Mass., stationed at the Lackland Air Force Base in Texas. Paris charged that at 12:30 A.M. Christmas Day, 1961, a sports sedan driven by Partin struck his car near Cuba, Ala., drove it off the highway and rolled it over several times.

Paris and another airman were seriously injured; a third airman, William Andrew Halas of Milwaukee, Wis., was killed. The civil suits charge that Partin continued at high speed down the highway. An investigation by Alabama authorities led to Partin's indictment on Sept. 26, 1962, on charges of first-degree manslaughter and leaving the scene of an accident.

The day before this indictment was returned, Partin surrendered himself to Louisiana authorities on yet another charge — aggravated kidnaping. As long ago as the previous June, two children of one of Partin's henchmen, Sidney Simpson, had been snatched from a motel where they were staying with their mother, who had legal custody. Simpson refused to disclose their whereabouts. A summer-long investigation by District Attorney Sargent Pitcher ended with the indictment of Partin and Simpson for the kidnaping. The children were still missing. Partin at first was refused bail. Then, on Oct. 4, 1962, after having been missing for five months, the two tots, one two years old, one ten months, were turned over to authorities in the basement of the courthouse. This relieved Partin of the possible onus of a federal kidnaping offense and made him eligible for bail.

Partin's original $50,000 bond on the federal embezzlement indictment had been revoked by the bonding company after he became involved in his other troubles, but now quickly, almost magically, everything was straightened out. Partin obtained another $50,000 bond, and he raised $5,000 new bail on the Alabama manslaughter indictment, $5,000 more on the Louisiana kidnaping charge.

On October 7, he walked out of jail. On October 8, he telephoned James R. Hoffa in Newark, N.J.—with investigators, unknown to Hoffa, recording the telephone conversation.



Meeting the G-men

Partin testified that during his incarceration he had had a little talk with William (Hawk) Daniels, an investigator for Sargent Pitcher. The defense was never permitted to establish just what he and Hawk discussed, but it did show that this private tête-à-tête was followed by a more formal conference. Present were Partin, District Attorney Pitcher, Daniels, a couple of other men, and A. Frank Grimsley, an attorney for the Justice Department. Partin acknowledged that at this meeting Hoffa's name may have been mentioned "casually," just in passing. He insisted that "the main purpose of the meeting" had nothing to do with Hoffa's upcoming trial in Nashville, but he did acknowledge that he had "a plan" to discuss the trial. The defense was never allowed to probe into the nature of this "plan." Partin insisted the discussion hadn't gotten very far because some important government representative who was supposed to be there hadn't shown up. Actually, nothing had been accomplished, then? Well, no. Partin acknowledged that, when he left this oddly pointless meeting, there was "an arrangement" for him to meet later with a representative of the federal government. "Probably," he admitted, he talked to the government "the next day."

Grimsley, the Justice Department lawyer, testified that he met Partin "at least two times. Possibly three." These conferences were in Sargent Pitcher's office, and they "would all have taken place in late September or early October. Grimsley conceded that Partin "probably started" as an informer in "late September" and that, when he made his October 8 phone call to Hoffa, he definitely was a federal undercover agent.

What was involved in this transformation of the much-indicted Partin into a gallant spy working on the side of the angels? To this day no one has said, but it is perhaps significant that Partin has never gone to trial. Trial dates on the twenty-six-count federal indictment were repeatedly set and just as repeatedly postponed, twice on motions by the defense, four times on motions by the government. Then it lapsed into limbo, its status indefinite.

Significantly, also, just at the time Partin was sprung on bail Hoffa was facing imminent trial in Nashville. On May 18, 1962, he had been indicted by a federal grand jury there in what became known as the "Test Fleet" case. The indictment involved the charge that Hoffa had accepted a pay-off of $1 million from a trucking concern to insure labor peace. The case was to go to trial in late October, and Partin, with all charges against him conveniently postponed, was at liberty to join his chief in Nashville.

He made a second phone call to Hoffa on October 18, 1962, one that was also recorded by detectives. Hoffa has always insisted that Partin billed himself as one who was being persecuted by the federal agents because he was such "a loyal Hoffa man" and that he asked permission to come to Nashville and discuss his problems. Partin insisted that Hoffa extended the invitation.

Before he left to join Hoffa's retinue, Partin also testified, he was briefed by Frank Grimsley, who gave him the Nashville telephone number of Walter Sheridan, the Justice Department investigator. Partin acknowledged that he knew just what kind of information his federal mentors desired of him. Grimsley told him, he said, "if I saw evidence of jury tampering or other illegal activities" to report immediately to Sheridan.

Partin arrived in Nashville on October 22, 1962. He had hardly set foot in the place before he discovered exactly what he had been sent to discover. The first jurors were not to be selected until the next day, but almost the first man he bumped into—a man whom he had never known, at that—told him of Hoffa's plans to rig the jury.

According to Partin, it happened this way: He had just arrived and was loitering in the coffee shop of the Andrew Jackson Hotel, waiting for Hoffa, when he struck up an acquaintance with a man calling himself Anthony Quinn, who said he was in the vending business. Later the same day Quinn came up to him again, laughed and said he wasn't really Quinn, he was Nicholas J. Tweel. Not knowing Partin, Tweel said, he had been cautious until he checked with Hoffa. Hoffa had assured him Partin was true-blue, and so Tweel, apparently out of a desire to make conversation, thereupon confided to Partin Hoffa's determination to commit a most serious crime.

Partin said on the stand: "He [Tweel] said that Mr. [Allen] Dorfman had called him and told him it would be a personal favor to him if he would come down to Nashville and help him set up a method to get to the jury."

Partin, of course, immediately communicated this intelligence to Walter Sheridan.

Within the next forty-eight hours there occurred the first of the jury-fixing rumbles that were to mark the course of the Nashville trial. On the opening day of jury picking, October 23, a juror named James C. Tippens was tentatively seated. It should be emphasized that the jury was not completed until October 25, and that at any time, up to the moment it was finally sworn in, Tippens might have been challenged and dismissed. An immediate effort to fix him, under the circumstances, seems so premature as to be almost idiotic. Yet Tippens, a Nashville insurance man, subsequently testified that when he returned to his office on the afternoon of October 23, he found a friend had been trying to reach him. He went to see his friend and was told it would be worth $10,000 to him to side with Hoffa in the trial. The next morning, Tippens reported this bribe attempt to Judge William E. Miller, who called in attorneys from both sides and then dismissed Tippens from the jury.

During the long course of the Nashville trial, with Partin nightly funneling information to Sheridan, there were two more reported attempts to approach and influence the jurors. Judge Miller in each case dismissed the jurors and replaced them with alternates. Since the jury in the Nashville trial was not sequestered but was free to read and hear what was going on, it would seem almost inevitable that it must have gained the impression, so prevalent in the rest of the nation, that Hoffa, caught in black deeds, had been desperately endeavoring to buy the jury. Yet when the case went to the jury on December 23, 1962, the jurors disagreed. They were split hopelessly. And amazingly, under the circumstances, the reported division was 7 to 5 for acquittal.

The 'Fix' Trial

But the federal government, with Edward Grady Partin in its corner, had laid the foundation for a new case. On May 9, 1963, another federal grand jury indicted Hoffa and five others on five charges of jury tampering. This was the case that went to trial before Federal Judge Frank W. Wilson in Chattanooga on January 20, 1964.

On trial with Hoffa in the Chattanooga case were: Ewing King, 50, recently defeated president of Teamsters Local 327 in Nashville; Larry Campbell, 39, a business agent with Hoffa's home local in Detroit; Thomas E. Parks, 50, Campbell's uncle, a Nashville funeral home employee; Allen Dorfman, 41, a Chicago insurance broker with close personal and business ties to Hoffa; Nicholas J. Tweel, a Huntington, W. Va., businessman who had business ties to Dorfman.

Almost from the first day of the trial, the defense was in open conflict with Judge Wilson. A special list of 200 veniremen had been drawn. When the list was announced, only the names of the prospective jurors were revealed; defense attorneys were unable to obtain any indication of occupations or addresses. They protested that they were unable to fulfill the first function of defense attorneys—to examine the backgrounds of prospective jurors for traces of possible prejudice. Not until the day the trial opened, when it was too late for them to exercise this right, were defense attorneys able to obtain identifying information about the special panel.

Cecil Branstetter, a Nashville attorney representing Larry Campbell, put the issue strongly in an argument before Judge Wilson on the second day of the trial. Analyzing the first 100 names to be used in the jury-picking process, he had found the panel heavily weighted with types that could hardly be expected to be impartial toward Hoffa. Branstetter said he had found on the list: seven merchants; fourteen women whose husbands were all insurance men, bankers or executives in industry; fifteen retired persons (these included a colonel and a rear admiral); seven Tennessee Valley Authority electricians; four maintenance engineers; six supervisors or foremen; fifteen salesmen; sixteen executives; two bankers; two government officials and one city employee; nine farmers. Branstetter found, as possibly counterbalancing influences, only two truck drivers, three general employees, one restaurant employee and six clerks. He argued that the list did not "even come close to representing a fair cross-section of employment categories in this community."

Jacques Schiffer, who represented Parks, joined the argument. He said he had gone to the clerk's office and sought copies of the questionnaires filed by the 100 additional jurors who were to be on hand the next day "and we were advised that they were not available. . . ." Judge Wilson, making no direct comment on this, remarked that he understood the defense had been "furnished a list of all jurors," and Schiffer responded, with a touch of irony, that the defense had indeed received the list "yesterday morning."

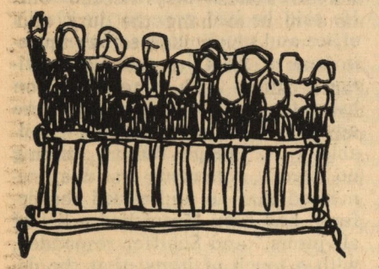
A second move by Judge Wilson led to another conflict with defense attorneys. Finding the selection of a jury proceeding too slowly for his taste, the judge took over examination of prospective jurors, barring defense attorneys from questioning to establish possible prejudice. Branstetter protested that Judge Wilson's examination was weak, that he was not making it clear the burden was on the government to prove guilt and "that there is no duty on any defendant to prove himself innocent." He argued that the Judge's instructions on this point were being given in

"negative form," and he urged that "counsel for the defendants be permitted to directly interrogate the jurors." This Judge Wilson would not allow, and the selection of the jury was completed under the restrictions he had laid down.

The early testimony dealt with the alleged jury-fixing attempts in the Nashville trial. It was a build-up for the appearance of the prosecution's star witness, Partin, and for the all-out attack on Hoffa. Two predominant themes emerge from this early testimony — repeated startling changes by government witnesses and repeated testimony that the government, in its effort to elicit the story it wanted, threatened witnesses with indictment or other punitive measures if they did not come across.

An Ambitious Trooper

One extensive strand of the testimony dealt with the alleged attempt to influence a juror named Betty Paschal through her husband, James Morris Paschal, a Tennessee State Patrolman. The go-between in this endeavor was a man named Oscar (Mutt) Pitts, a trucking firm employee, and the alleged fixer was Ewing King, then president of the Nashville Teamsters local. Pitts, ac-



cording to his testimony, had been a long-time friend of Paschal; and King, in late October, began to feel him out about what kind of man Paschal was. Pitts told King, he testified, that Paschal was "a good boy," that he and his wife both had some money, that money would be no inducement to them—but there was one thing Paschal wanted above all else, a promotion. He had been on the state patrol for some fourteen years, with never a promotion.

King felt confident, Pitts said, that the Teamsters with their political influence could get Paschal his much-coveted promotion. There was some suggestion that Paschal might be able to talk to his wife about the Hoffa trial. King asked what kind of woman Betty Paschal was. Pitts told him she was a woman "who could stand on her own two feet anywhere." King never mentioned specifically, Pitts said, what Paschal might talk to his wife about; he never suggested she was to vote for an acquittal.

This was the situation when, on the dark and rainy night of November 17, 1962, Pitts set up a meeting between King and Paschal at a lonely spring off the River Road. At this meeting, according to Pitts, King told Paschal he felt certain the Teamsters could get him a promotion. Again according to Pitts, Paschal was the first to bring up the subject of his wife; he mentioned that she was on the Hoffa jury. King wondered if Paschal could "talk" to his wife, but Paschal said they weren't getting along very well and, under the circumstances, he could do nothing with her.

On cross-examination by Harold Brown, Chattanooga attorney for King, the complexion of this testimony altered in some important respects. Pitts now agreed that he was the one who approached King, not King him. Pitts said he had backed a loser in the gubernatorial election; King had backed a winner; and so, knowing he had no influence, Pitts said he had asked King if he could help Trooper Paschal. This was testimony, certainly, that changed the entire direction of the stimulus.

Some other things changed when Brown confronted Pitts with the transcript of an interview he had given before a court reporter on May 14, 1963, in the law office of Leftwich and Osborn (Z. T. Osborn, Jr., had been Hoffa's counsel in the Nashville trial). In this Pitts had said that after they had discussed Paschal's promotion prospects Hoffa's name was brought up. Paschal himself first mentioned it, saying, "What are they going to do to Hoffa?" And King told him, "They would do nothing if he could get a fair trial."

In this statement, Pitts had also said that "Ewing King did not ask James Paschal to help Mr. Hoffa in any way." He had even said that King asked Paschal not to tell his wife about their conversation—and that King had assured Paschal her being on the jury had nothing to do with their conversation about the possible promotion.

Pitts had difficulty remembering these statements, but when he read the document he had signed, he said: "I wouldn't deny it; if I said it, I said it; but I don't think I said that."

Pitts was obviously a harried witness. "I'm scared to death," he testified at one point. He said he had been questioned so many times he had lost count. He had talked to William Sheets, the FBI agent who had been active in the surveillance in Chattanooga; he had talked to James F. Neal, the U.S. Attorney in charge of the prosecution, to Walter Sheridan and to a number of other federal attorneys. Neal, he testified, "never did say a word out of the way with me," but one of the other government officials "got disgusted. He said, 'If you don't tell me the truth, I will get you and your wife both indicted.' " This occurred, said Pitts, "on a Sunday evening before I testified before the grand jury."

On further cross-examination, Pitts identified Walter Sheridan as the man who had made the threat to him about getting him and his wife indicted. "I will have to say that the reason Mr. Sheridan told me that if I didn't tell the truth and that I and my wife would be indicted was because I would not agree with something he was telling me." He testified now to virtually the same version he had originally given Osborn—that King had said to Paschal they should not be talking about Mrs. Paschal's service on the jury. "King just wanted to know what kind of woman she was," he testified.

This put the issue up to Paschal. The state trooper confirmed the details of the midnight rendezvous and the discussion of his possible promotion. But then his story veered sharply away from even the most positive testimony given by Pitts. He declared that King had brought up the fact that Mrs. Paschal was serving on the jury.

"He asked me if I could talk to her. I told him no, that I couldn't talk to her, that we weren't getting along too good." Paschal quoted King as saying: "You talk to her. I will get you the promotion."

Paschal said he then assured King he would talk to his wife. But he never did.

On cross-examination, this positive and damning testimony changed color like a chameleon. Paschal agreed that he had never

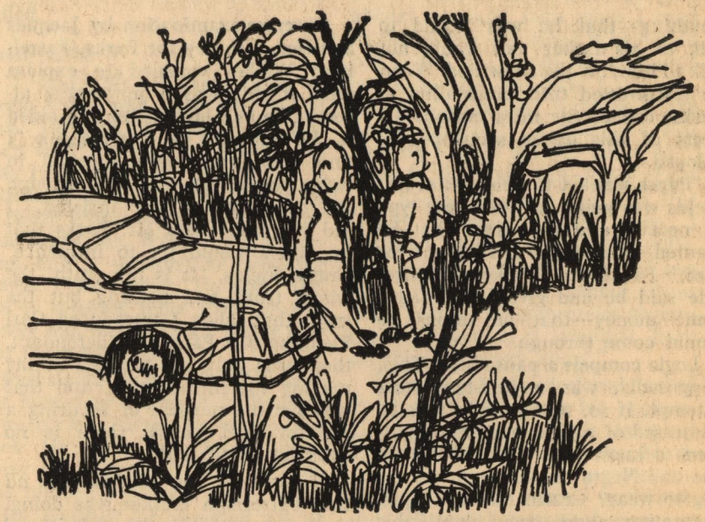
reported this jury-fixing attempt; he should have done so, but he just hadn't. He conceded, too, that he hadn't testified to this same effect when he was questioned by Judge Miller the day his wife was thrown off the jury; that he hadn't told this story when he was first questioned by the FBI; and that he had signed an affidavit to an entirely different version when he was questioned in his own home by Osborn and made a statement to a court reporter.

He had told then about his interview with FBI agents. He said he had told them he didn't know King was connected with the Teamsters; he had told them he and King never even mentioned Betty Paschal's service on the jury — "that they never mentioned it and that I didn't have any occasion to mention it." In his statement to Osborn he repeated that "there was never any conversation about me talking to my wife." Paschal, incidentally, had had his own lawyer present at that questioning.

The 'Truth' or Else . . .

Before he changed this testimony to the accusing testimony he gave on the witness stand, he had several more sessions with the FBI. "They didn't tell me they were going to indict me," Paschal testified. "They told me I could get in trouble and maybe be indicted."

He identified Sheets as the FBI man who had given him this news. Sheets, he said, had told him also that he could lose his job. However, Sheets had always told him just to come on and tell the truth. Everybody, it developed, was telling Trooper Paschal to tell "the truth," but it became fairly obvious that the only truth they would believe was the truth they wanted to hear. Paschal testified that before he finally arrived at "the truth" to which he was now testifying, and to which he had testified before the grand jury, he had had a session with his superior, a former FBI man, and with the chief and the commissioner of the state highway patrol. "They told me that they wanted me to do the right thing and if I know anything other than what I had stated, they wanted me to tell it," Paschal testified. The chief, he said, told him he had been a good officer, but the chief also added "he wanted me to do the right thing and that they couldn't have anybody in the department that didn't." At one point, Paschal acknowledged that the ef-



fect all this had "on my mind is that it would be a lot easier on me —I would come near my not losing my job and everything would be better."

At the end of his uncomfortable session on the witness stand, Trooper Paschal testified:

I knew that I was deliberately perjuring myself when I was in the U.S. District Court and questioned by Judge Miller and Mr. Neal. . . . I knew that there is a penalty for perjury. . . . To my knowledge, there has been no indictment returned against me for perjuring myself. . . . I don't recall the federal government has threatened me with a perjury indictment — they may be going to. . . . I am still wearing the uniform of the Tennessee Highway Patrol.

Mr. Fields's Necktie

Even more curious than this checkered story was the third alleged jury-fixing attempt—an involved and tenuous skein supposedly designed to influence the one Negro juror on the Nashville panel, a man named Gratin Fields.

The prosecution's star witness in this phase of its case was a Nashville patrolman, James T. Walker. Walker knew Thomas Ewing Parks, the Nashville funeral parlor employee who was the uncle of Larry Campbell, one of Hoffa's business agents in Detroit.

Patrolman Walker testified that Parks telephoned him and later came to his home between 5 P.M. and 6 P.M. on a November day while the Hoffa Nashville trial was in progress. They sat in Parks's car and talked. Parks asked Walker if he knew anything about the Hoffa case. Walker said only what he read in the newspapers. Parks asked if Walker knew Fields, who lived up the street from him; Walker said that he did.

Parks asked if Fields needed money. Walker said he didn't know. Parks said "the big boys" wanted to talk to Fields—they needed one more man to hang the jury and "they would be willing to pay up to at least $10,000 to talk to him." Parks called Walker back two or three days later. Walker, in addition to being a city patrolman, ran a small stationery and printing business. Parks said he was opening a dry-cleaning business. He needed some handbills printed, and he needed someone to work for him. Did Walker know anyone he could hire?

Walker knew a couple of neighborhood youths, Walter Jackson and Carl Fields, who were in need of employment. Was Carl Fields, Parks asked, the son of the Fields who was on the Hoffa jury? Walker said he was. Walker declared Parks said, "That is my man." He asked Walker if he would get in touch with Carl Fields.

The obliging patrolman arranged a meeting at his printing shop that night. Parks and Carl Fields went out to Parks's car to talk; Walker didn't hear anything that was said. Later Parks telephoned Walker and asked him to find out what Fields was going to do. Walker called Carl Fields.

"Carl told me that he hadn't done

anything—that he was afraid to talk to his father and would not talk to him," Walker testified. When he transmitted this information to Parks, one of the most curious aspects of this entire sequence developed.

"Parks wanted to know what Mr. Fields was going to wear—the type of necktie and that was what he wanted Carl Fields to find out for him," Patrolman Walker testified. "He said he had given Carl Fields some money—that he thinks he would come through."

Logic compels a pause here. This, supposedly, was a jury-tampering attempt. If so, why would Parks be possessed of such a consuming passion to know what type of necktie the one Negro on the jury was going to wear? Gratin Fields, by pigmentation alone, was identifiable in that jury box. The defense certainly knew what he looked like. What possible interest could it have in Gratin Fields's necktie?

When Parks didn't hear anything more from Carl, he came back to Walker and asked who wore the pants in the Fields family. Walker guessed that maybe Carl's sister, Mattie Leath, did. At Parks's request, he said, he drove out to a housing authority site where Mattie Leath worked. Parks stayed in the car, and Walker went in to see Mattie.

She told him, he testified, that Carl had discussed "the matter" with her. "I don't want any part of the government or anything of that particular type," Walker quoted her as saying. Walker told her that she was a fine girl; this was the upstanding attitude he would have expected from her; and if anyone bothered her again about "the matter," she should call the FBI and the police.

Having given this advice, Patrolman Walker—the man who by his own testimony knew that a jury-fixing attempt was under way, that a $10,000 potential bribe was involved—notified neither his superiors nor the FBI. He simply went back and reported to Parks, he testified, that it was "no dice" with Mattie Leath. On leaving him, he testified, Parks promised, "We will take care of you." Patrolman Walker added: "There was no amount mentioned." Even this offer to reward him for his dubious services did not impel him to report the incident.

On cross-examination by Jacques Schiffer, attorney for Parks, Patrolman Walker wrestled to explain why, if this was a jury-fixing attempt, he as a law officer had aided it. He insisted he didn't think "I and Mr. Parks were engaged in doing something unlawful through the conversation." He insisted, "I did not agree with Mr. Parks that he and I would try to influence" Gratin Fields. "It is the truth, the whole truth and nothing but the truth that when I introduced Carl Fields to Mr. Parks, the defendant, there was only one purpose in my making the introduction, and that was for the purpose of securing a job for Carl Fields; there is no question about that."

If there is not, if this was *all* that Patrolman Walker was doing, then how valid is his other and damning testimony? Damning to Parks and damning to him. Innocence and guilt cannot so commingle.

Money on the Seat

Walker was followed to the stand by Carl Fields. He described what was discussed in Parks's car when he met Parks. "He asked me was my father on the Hoffa jury and I told him yes." Parks said, "Well, you know Bobby Kennedy is out to get Mr. Hoffa." Parks then asked, Carl Fields testified, "if I thought I could talk to my father as far as voting for acquittal." Carl Fields said: "I said no, I couldn't talk to my father about anything like that; I said he wouldn't go for anything like that."

Parks told him, Carl Fields said, that if he could influence his father it would be worth $10,000—$5,000 for him and $5,000 for his father. Carl insisted his father would not have anything to do with such a deal.

"Then he took five twenty-dollar bills and laid it on the seat of the car," Carl Fields testified. "He said, 'If you can just tell me what kind of a suit he would be wearing or what kind of a coat he would be wearing tomorrow and give me that information before nine o'clock, I will give you another hundred dollars.'"

Carl Fields protested he didn't want the money; he didn't know whether he could do this. But Parks insisted "it would help him a great deal," and so Carl finally "obliged him" and took the money. "I saw his wallet, and it appeared fat," Carl Fields testified. Parks asked him to telephone before 9 o'clock that night because he, Parks, had to make a call to Louisville. (Parenthetically, it should be noted here that a favorite tactic of the prosecution throughout the trial was to try to bolster the testimony of its witnesses by producing telephone call slips showing that calls were made at the times witnesses had testified they were made. It should be obvious that this tactic can be the hallmark of a manufactured case just as readily as it can be proof of a legitimate one.) Anyway, in this instance, Carl Fields testified, he got a checkup phone call from Walker asking him what he was going to do; then he telephoned Parks and told him he couldn't ask his father about his attire. Did Parks want his $100 back? "No, you can just keep that for your trouble," he said Parks told him.

The FBI, Carl Fields said, had talked to him twice. "The first time, I didn't tell them the facts, but the second time I did." He had also given Osborn, Hoffa's Nashville lawyer, a statement "which was not true, because I didn't want to become involved in it."

Some Missing Notes

On cross-examination by Schiffer, Carl Fields said that both times he had talked to FBI Agent Sheets, Sheets had made notes on the conversations. Schiffer demanded that these notes be produced. The prosecution said they no longer existed. Sheets, taking the stand, explained that each time he finished talking to Carl Fields he dictated brief but virtually verbatim statements from the notes he had taken. Then he destroyed the notes. He had followed the same procedure in his discussion with Patrolman Walker. This, Sheets testified, was standard practice in the FBI.

Taken point by point through his first version of the Gratin Fields affair, Carl Fields acknowledged just how completely he had repudiated everything. He had denied flatly that anyone had asked him to influence his father's vote on the jury. He admitted he had said he wasn't even acquainted with Parks and had never talked to him. But now, Carl Fields insisted, this original statement was "a pack of lies." He had, he said, "deliberately lied" to the FBI and to Osborn. When he took an oath, he had "deliberately told a falsehood under oath."

Which of Carl Fields's two versions was true? How did Thomas Ewing Parks, if he was attempting to rig the Hoffa jury, come to put such emphasis on Gratin Fields's attire? For some possible answers, let's skip ahead to the defense's account of these events.

When Parks took the stand, he testified that, up to the very moment when he was indicted in the Chattanooga case, he didn't even know James Hoffa, Allen Dorfman, Nicholas Tweel or Ewing King, his co-defendants. The way Parks told it, he was walking down a Nashville street one day during the previous Hoffa trial and he happened to meet Patrolman Walker. Walker, Parks testified, "asked me did I want to make a little extra money. I asked how I would go about it."

Walker asked Parks to come out to his print shop about 5 P.M. Parks went. He told Walker he was ready to go to work and asked what did Walker have in mind.

"He said he had an assignment from the federal government," Parks testified. "He wanted me to help him out on a little detail. . . ."

Walker said he needed some information from a young fellow who would be out at the office between 6:30 and 7 P.M. What Walker wanted to know was what type of clothing the young man's father would be wearing each morning when he left home. Walker, Parks said, peeled off $125 in bills and said that each time the young man gave Parks sartorial details Parks was to keep $25 for himself and give the young man $100. The young man, Walker told Parks, was named Carl.

Parks went back that night and met "Carl." At Walker's suggestion, they went out to Parks's car to talk. Parks testified: "I got in the car and I said, 'I suppose Mr. Walker told you just what he wanted did. I have to give you my phone number where you can call me and then I will contact him in turn and give him your message and he wanted me to give you this money,' and I gave him the money."

That night about 8:30, Parks said, Walker called him and asked if he had received any message from Carl. Parks said he hadn't. Walker gave him a phone number at which he could reach "Carl," and Parks called.

Family Affair

"I said, 'Mr. Walker wants to know what you have got to tell him.' He said, 'I have talked this over with my mother. She thinks that I shouldn't get involved in it because I don't know what it is he is really trying to find out.' I said, 'You know Mr. Walker is a policeman and it wouldn't be anything illegal, I don't think.' He said, 'Yes, but it involves more than he evidently told me. I think I better give you the money back.'"

Parks said he told "Carl" to keep the money or return it to Walker; it wasn't his, Parks's, money to take back. He never saw "Carl" again, never knew his full name until he was himself indicted.

He testified he reported all of this to Walker, and Walker said, "Well, just forget it."

Parks did. About ten days later, he said, Patrolman Walker asked "me to drive him out in South Nashville." Parks drove Walker where he wanted to go; Walker got out, disappeared for several minutes, during which he saw Mattie Leath; and then Parks drove him back to the city and let him off, never knowing what it had been all about. When a federal grand jury began investigating the alleged jury rigging, Parks was subpoenaed. Having no lawyer, he said, he telephoned Patrolman Walker asking for advice, and Walker told him the best thing he could do was to claim the Fifth Amendment; if he did that, he couldn't possibly get into trouble. So he did.

Sometime later, Parks was indicted for not having filed a 1961 income tax return. His gross income for that year — this man whom Carl Fields had described as having a fat wallet — was listed as $1,568.17. After this indictment had been found against him, Parks testified, he had an encounter with Walter Sheridan. When Parks appeared at the courthouse to plead on the income tax charge, a federal marshal told him Sheridan wanted to see him.

"He told me," Parks testified, "if I would cooperate with him, I could forget about the income tax thing if I would just go along with what he had in mind for me. . . . I said if I cooperated in any way I would have to be lying because I don't know a thing about these people's affairs no more than what I read in the papers. He asked if he would not indict me, would I go along and cooperate with him. I said, no, I wouldn't. He said, 'Suppose I take Larry out of it?' I said, 'It's still nothing I could tell you but a lie.'"

Parks said they talked for about two hours. "He told me that if I would cooperate with him, I wouldn't have to stay in Nashville, that I could take my choice of any city or state in the United States that I wanted to lie in under government protection. I wouldn't have anything to worry about."

Sheridan, Parks declared, asked if he would telephone his nephew, Larry Campbell, and ask Campbell to meet "with us" so that he, Sheridan, could make a proposition. Sheridan said, Parks explained, that "he wasn't interested in me or Larry, it was Mr. Hoffa he was interested in, so if we would cooperate with him, it would be a direct link to Mr. Hoffa."

Parks said it was impossible; he didn't know a thing; he couldn't help unless he lied; and "I said I refused to lie for anybody." So he was indicted. On cross-examination, Parks's testimony stood unshaken.

The result poses a most hideous quandary. Was there any substance to the government charge that Hoffa and his cohorts attempted to influence Gratin Fields? Or was this whole plot the work of an *agent provocateur*, intent on framing Hoffa?

The defense attempted to supply an answer by putting on the stand an informer of its own. He was Frederick Michael Shobe, an ex-convict who had worked for two years for Walter Sheridan's special investigative unit in the Justice Department.

Turncoat Shadow

Shobe had been convicted for burglary, forgery and armed robbery; he served a term in Michigan State Prison; and he had been released on four years' probation. He had obtained a job on the docks, where he had been thrown into contact with ex-convicts and other questionable characters. This, he was informed, was a violation of his parole, but there was a way out. Instead of being sent back to prison, he could go to work for Walter Sheridan's special investigative unit. He did. And for more than two

years he ranged the country widely as an *agent provocateur* — a term he used himself to describe his function — inciting riots and fomenting trouble within the Teamsters union, his conduct vouched for, his expenses and his salary paid by a grateful federal government.

Why had Shobe defected? He had finally worked his way out from under the shadow of parole and found himself in the clear. He asked his federal mentors to get him a job. He had a college education and hoped to be able to get some training as a computer operator. After much delay, he finally was told a job had been arranged for him with the government — but in Japan. Shobe concluded that his federal sponsors, having used him, wanted to get him as far away as possible, where he could not possibly rock the boat. He rebelled and spilled all to William Buffalino, the Teamsters' attorney.

Taking the stand in the Chattanooga trial, Shobe demonstrated his intimacy with Sheridan by reading into the record Sheridan's Washington office number, RE 7-8200, and his unlisted home phone number in Bethesda, Md., OL 6-4525. He testified that Thomas McKeon, a federal aide, had sent him from Detroit to Louisville and Nashville in June, 1963, and had written out for him "the name of Brown's Tourist House where I should stay and Joe's Palm Room where I should frequent and that I should remain in daily communication with Walter at Nashville 242-2106." Shobe offered in evidence the piece of paper containing the notation that he said was in McKeon's handwriting. "That is what Mr. Thomas McKeon gave me along with $250, and I departed that night for Louisville," he testified.

His job, Shobe said, was to try to find "someone who would state that Larry Campbell or Charles O'Brien had made incriminating statements about their interest in the Hoffa trial. . . ." As soon as he reached Nashville, he consulted with Sheridan. Furious prosecution objections, sustained by Judge Wilson, prevented him from testifying about what he and Sheridan had discussed. But Shobe did get into the record that they had discussed Parks. ". . . he [Sheridan] was primarily concerned at that time with getting Mr. Parks to come into the government and at that time our plans were directed toward that end."

The government fought furiously now, with Neal leading the pack, against Shobe's being permitted to testify to anything specific. Judge Wilson sustained virtually every objection, and Jacques Schiffer was driven to take another tack with his witness. He asked Shobe if he had ever met Patrolman Walker. Shobe said he had; as he was leaving Nashville for Louisville, Walker had sidled up to him. At this point, yielding to prosecution objections, Judge Wilson dismissed the jury and ruled Shobe would be examined in a *voir dire* proceeding. Schiffer, joined by all the other defense attorneys, protested vigorously. Throughout the trial, a favorite tactic of Judge Wilson's was to hold long *voir dire* hearings (he himself estimated at one point that 60 per cent of the record was compiled in the absence of the jury), and the defense objected strenuously that this procedure was ruining its case.

Schiffer argued that the defense had an "absolute right and a duty . . . to expose any attempt by the government to do something wrong or illegal and that it is a sign of weakness in their case when they attempt such activity and when such attempts are made to frame the defendants and Mr. Parks in particular . . . and where they attempt to fabricate testimony and suborn perjury, it is for this court to take such testimony and for the jury to hear it directly because it bears very materially upon all the credibility of all the testimony of all the witnesses put in here up to this point by the government."

Bribe Money

Judge Wilson refused to be swayed, and Shobe's testimony, probably as significant as any offered in the case, was never to get before the jury. Shobe stated that it was obvious to Sheridan and everyone else that, if the $1,500-a-year Parks were ever to be found guilty of bribing somebody, an explanation should be offered as to how the bribe money came into his hands. Shobe was assigned, he testified, to produce the evidence. He approached a man in Detroit named Harry Ellis, a numbers operator with numerous past violations and a whole series of new charges hanging over his head.

"I arranged for Mr. Ellis to have a conference with the U.S. District Attorney, William Merrill, in Detroit, in order that he testify that a man named John White, of Detroit, Mich., had brought bribe money to Nashville during the early fall of 1962," Shobe testified. "Mr. Ellis refused to do this."

Then, Shobe said, he shadowed Parks. Sheridan had given him the names of Parks's associates; Shobe got in touch with them and "well, I guess you would say I had threatened them to a certain degree. . . ." Still seeking a handle on Parks, Shobe spoke to a Nashville voodoo practitioner known as Bishop St. Psalm. He introduced the Bishop to James Durkin, the special Assistant Attorney General in the case. The Bishop published a small magazine and stipulated that, if he was going to help the government, he wanted some advertising. Assured that this might be arranged, he left Durkin's office with Shobe and went directly to Tom's Cleaners, a shacklike structure where Parks was trying to set up in business. Shobe testified that Bishop St. Psalm managed to pick up some object belonging to Parks, and when they returned to the Bishop's residence, the Bishop began to burn black candles and to utter incantations that were intended to sway Parks.

Shobe said that he personally never had any faith in black magic, but he had discussed the matter with Sheridan and Sheridan thought, since there were so many superstitious persons in Nashville, that it might be worth a try.

If Shobe was correct, if the federal government would not balk even at voodoo in its effort to turn a defendant into a witness, how far would it go? Schiffer got to the point in the following sequence:

Q. Let me ask you this now: As you sit here now can you tell us whether you had discussed with Walter Sheridan a plan to frame Mr. Hoffa?

A. We had discussed Mr. Hoffa, Mr. Buffalino and Mr. Fitzsimmons and various Teamster officials at different times . . . as a matter of fact, this was a constant topic, it was my understanding that the only reason for the existence of the particular department that Walter headed was to get Mr. Hoffa.

Q. I see. Was that made plain to you by Walter Sheridan that the purpose was to get Hoffa?

A. That is correct.

Q. And was it indicated to you that it made no difference whether he was—, they used legal or illegal means?

A. Well, preferably if there was something found that incriminated Mr. Hoffa, well and good; however, if there wasn't the feeling in the department was that Mr. Hoffa should be in jail anyway and that we—, if we had to resort to unfair tactics, well, that's where a person like myself came in at.

Q. I see. And that is why they called you into service because they wanted you, like you described, "that's why they wanted me in the service, to frame Hoffa," is that correct?

A. Well, to get him by any means, fair or foul, that was my understanding of the matter.

Q. And you were directly told that by Walter Sheridan?

A. That is correct.

The questioning shifted back to Shobe's first encounter with Patrolman Walker. It occurred at the Greyhound Bus Terminal in Nashville. ". . . he stated that he was working for the same man I was and, of course, I feigned ignorance because I had never spoken to Walker and I had no orders to contact him from Mr. Sheridan whatsoever, and Walker, I said, 'Well, whom do you work for?'

"He says, 'Well, you know Mr. Sheridan.'"

Shobe testified that he brushed off Walker. Later, he said, he checked with Sheridan and found that Patrolman Walker was indeed working for the government; he even read Walker's grand jury testimony. Schiffer asked if Walker had ever said "how long a period he had been working for Mr. Walter Sheridan," and Shobe replied: "Well, he told me that he had been on this case since it started."

The Kidnap Game

Now Shobe came to the most startling part of his testimony. The government was so eager to force the defendant, Parks, into becoming a witness for the prosecution, he asserted, that at one time he and Sheridan discussed a plan to abduct Parks and scare him within an inch of his life. Shobe had noticed that Parks "in the evenings sat out in front of Tom's Cleaners either on a milk crate or on a half a chair," and he felt it would be "comparatively easy" for him and a couple of companions to drive up and pretend to "arrest" Parks. They would carry out the fake by driving him to the huge parking lot in the rear of the Federal Building. There, suddenly, they would drop the pretense, handcuff Parks, gag and blindfold him, and then drive him out to a park in East Nashville.

There "we would take him out into the woods and well, we had a couple of shovels and we were just going to start digging a hole. And Mr. Parks being an undertaker, I imagine he would get the message. . . ."

After they had scared Parks sufficiently, they would remove his gag and talk to him, pretending they were Hoffa strong-arms who had been assigned to do Parks in. If Parks was sufficiently scared to cooperate, fine. If he wasn't, Shobe had figured a way out. He would flash a signal with a flashlight; men waiting in the woods would come pouring out to "rescue" Parks; and Shobe and his companions, in the confusion, would get away. Shobe testified that "the only reason this plan wasn't carried out was simply because I felt that with the feelings against the government in Nashville and their part in the civil rights, and I don't think the local authorities would just say release Fred Shobe if they caught me with this man bound and gagged in a car or else out digging a hole." Shobe had been afraid some local cop might accidentally bump into the plot, ruining everything, and when he realized "the penalty for kidnaping in Tennessee is death . . . why I took a bus and headed back for Detroit. . . ."

When the jury was called back into the courtroom, Shobe was permitted to testify to none of this. He was permitted to say that Patrolman Walker had told him he had been working for Walter Sheridan ever since sometime in 1962. He did get into the record that Walker and some other detectives on the Nashville force had come out to see him at his motel and to ask him if Sheridan would keep his promises to them. They were worried, Shobe testified, because the Justice Department was investigating the Nashville police force. Walker told Shobe that Sheridan had promised "that he [Walker] would be spared and that was the only form of compensation I understood from him that he was going to receive from Mr. Sheridan."

With Judge Wilson upholding the government's objections every step of the way, Shobe was not permitted to testify to his conversations with Sheridan; to the amounts he had been paid by the federal government to work for it as an informer; to any details of the plot to terrorize the defendant Parks into becoming a prosecution witness.

When he finished his direct testimony, he left the stand unchallenged. The government, through Judge Wilson's favorable rulings, had kept his most damning testimony from the ears of the jury. But Shobe had cast Patrolman Walker in the role of secret government agent, not a normally impartial witness. Since he had, it seems significant that the government let him go without asking a single question on cross-examination. His testimony was not impeached. And since it was not, the spoor of the *agent provocateur* looms that much larger in the evidence.

The Premature Fix

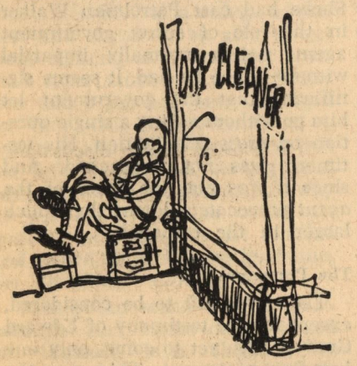
There was left to be considered, except for the testimony of Edward Grady Partin yet to come, only one jury-fixing attempt. This was the first in the sequence and the most important — the alleged $10,000 bribe offer to James C. Tippens, the Nashville insurance man, on the very day the jury-picking began. It is obvious that this incident should have been paramount in the government's case. The alleged attempts to influence Betty Paschal and Gratin Fields were disturbingly tenuous. Even if one accepts the prosecution's allegations at face value, it is admitted that neither Trooper Paschal nor Carl Fields ever talked to the two jurors. Mrs. Paschal and Gratin Fields knew nothing of the attempts until they were called before Judge Miller and banished from the jury.

But Tippens was one juror to whom a direct overture had allegedly been made. He had been told flatly it would be worth $10,000 to him to acquit Hoffa. In the light of this, it seems only logical that Tippens would loom as the principal exhibit in the prosecution's array of evidence. But it did not turn out that way.

Tippens' original story to Judge Miller in Nashville had been this: When he returned to his office after being tentatively seated on the jury on October 23, 1962, his secretary told him that a friend and neighbor,

Lawrence (Red) Medlin, had been trying to get in touch with him. Tippens telephoned Medlin. Then, at Medlin's request, he went out to Medlin's "place of business" for a personal meeting. They talked, and Medlin told Tippens it would be worth $10,000 to him if he, as a juror, voted for Hoffa.

This account makes it obvious that Lawrence (Red) Medlin and his involvements were crucial to the Hoffa case. Who was behind this alleged bribe attempt? Who induced Medlin to approach Tippens? These



were crucial questions. But, unfortunately, there was no way of getting at them because Medlin could not be produced in court. He had been indicted with Hoffa and the others, but when Hoffa and the rest fought for a change of venue and succeeded in getting their trial transferred from Nashville to Chattanooga, Medlin had not joined in the action. He preferred to stand trial in Nashville, and so his case was severed from the rest. This left a huge gap at the heart of the prosecution's case. Because Medlin was not on trial, because the government was prevented from tracing the alleged Tippens offer through him back to Hoffa or to anyone in Hoffa's entourage, there was a grave legal question whether Tippens should be allowed to testify at all.

The defense argued strongly that he should not. Logic and law both would seem to back this argument. But Judge Wilson decided to let Tippens testify. He decreed, however, that the testimony should be accepted only to the degree that it might tend to corroborate details of Partin's testimony regarding statements made to him by Hoffa.

Under the court's ruling, Tippens was permitted to say only that he had had a conversation with Medlin. He was not permitted to say what they had discussed. He was permitted to say that he had reported this conversation to Judge Miller the following day, October 24. He was not permitted to say what it was he had reported, but simply that he felt it was of such a nature that it disqualified him for jury service.

Slips of the Tongue

These were the restrictions, but there was no way of guaranteeing they would be obeyed. For example, Tippens testified at one point:

I went into Judge Miller's office and told him that I felt that I should be disqualified as a juror due to the fact that I felt like that I could not serve under the conditions that existed in which were, namely, I had been offered—

Berke roared an objection. Judge Wilson instructed the jury to disregard the remark. But the remark had been made, and the jury must have heard it.

The rest of Tippens' testimony contains many instances where, with the prosecution egging him on, he verged upon the unmentionable. At one point, before anyone could stop him, he got this out: "I told Judge Miller that I felt disqualified to serve on the jury due to the fact that I had been offered a sum of money." Berke objected. Branstetter demanded that the remark be stricken. The court instructed the jury to disregard it. But again the damage had been done.

Tippens testified that, after his session with Judge Miller on October 24, he had another talk with Medlin "at a barn where he keeps his horses . . . about a half mile from my place." Their "country places," Tippens explained, made them neighbors. Again, he seemed about to get into the details of what had been said in the judge's chambers; again, the defense roared its objections and the judge dismissed the jury while he listened to legal arguments.

Common sense says that all of this must have been infinitely prejudicial to the defense. The impression the jury must have gotten was that of a guilt-stained defense battling with every legal technicality at its disposal to keep the forthright Tippens from giving the jury testimony it had a right to hear. Yet the truth clearly is the very reverse of this. It was the prosecution's duty to establish that the alleged $10,000 bribe was linked to Hoffa. If it was not linked, testimony about it had no place in this trial.

The dubiousness of this entire sequence was to be thrown into high relief by the separate trial of Medlin in Nashville. There, on April 3, a jury convicted Medlin of offering the $10,000 bribe to his friend, Tippens, but curiously enough the government produced no proof to link the alleged offer to Hoffa or his aides. The government's case was based almost entirely on Tippens' testimony about his conversation with Medlin. Medlin, fifty-three, proprietor of a sandwich-packing concern, acknowledged that the conversation had taken place, but denied he had made Tippens any offer. He insisted he had only told Tippens about a conversation he had "overheard." Whom had he "overheard"? Who had planted this idea in his mind? These remained unanswered questions; and though the government in this trial was unrestrained by technicalities like those that had inhibited it in Chattanooga, it suggested no answers. Medlin swore that he had never heard of Hoffa, knew nothing about him—and his statement stood in the record, unchallenged by the government.

What is the meaning of this?

One cannot be certain, but the doubts born in the Paschal and Fields testimony are reinforced a hundredfold by the insubstantial nature of the Tippens charge. They are reinforced, too, by the way another early key element of the case, introduced by Partin, crumbled on close examination.

It will be recalled that on the first day Partin landed in Nashville (only a few hours before the Tippens mystery began to brew) he stumbled headlong upon the very evidence he had been sent to find. His story was that Nicholas J. Tweel, the West Virginia businessman who posed when they first met as Anthony Quinn, had confided to him Hoffa's plans to fix the jury. The implausibility of anyone's confiding such a dark secret to a man he had just met for the first time is comparable to the implausibility of the precipitate Tippens bribe. Nevertheless, that was Partin's story, and it is instructive to see what happened to it.

In the Coffee Shop

Tweel, when he took the stand, testified that he and Allen Dorfman, the Chicago insurance man who handled Teamster pension funds, had been involved in many business deals. The defense exhaustively documented their business relationship. According to Tweel and Dorfman, they had planned to meet in New York to iron out some pressing business transactions, but at the last minute Hoffa had asked Dorfman to come to Nashville with some records that might be essential to his defense. Dorfman, as a result, had telephoned Tweel and suggested that they meet in Nashville.

They were sitting in the coffee shop of the Andrew Jackson Hotel, Tweel testified, when Partin came up and introduced himself to Dorfman, whom he had apparently met previously. Dorfman in turn introduced Partin to Tweel. There never was any Anthony Quinn in the picture, Tweel testified; that character was Partin's fiction.

After Dorfman left, Partin engaged Tweel in conversation. Partin, Tweel said, told him all about his troubles in Louisiana and wanted to know if Tweel could recommend a good lawyer there. Since Louisiana was Partin's turf, not Tweel's, it seemed a strange request; but, as it happened, Tweel did have a friend who felt he had been well represented recently by a lawyer in Baton Rouge. Tweel couldn't think of the lawyer's name at the moment, but he told Partin he would try to find out if Partin wanted to get in touch with him later.

And that had been all there was to it. Tweel never invited Partin to his room later that night. Indeed, he never saw Partin again. Instead of chatting with Partin about fixing the Hoffa jury, Tweel had met some acquaintances, had dinner with them and then went out on the town with them, nightclubbing until about 2 A.M. This fact, too, was supported by independent testimony.

The next day, October 23, Tweel said, he and Dorfman went over to the court to look in on the opening of the Hoffa trial. In the courthouse, he said, he looked casually at a long list of veniremen from which the trial panel was to be drawn; but since he didn't know anyone in Nashville, he didn't examine the list closely. In fact, said Tweel, until this visit, he had never been in Nashville in his life, and after this one visit, he had never returned. When the morning court session ended, he and Dorfman conferred and settled their business matters; then Dorfman caught a plane to Chicago, and Tweel flew back to Huntington, W. Va.

In one sequence, Tweel testified: "During my stay in Nashville, I had no occasion to meet Mr. Hoffa. I did observe him in the lobby of the hotel. I observed him at the courthouse. I think these are the only two occasions I had ever seen Mr. Hoffa. I have never had any occasion to meet him. . . . The next time I saw Mr. Hoffa we were being arraigned together in Nashville, Tenn. I don't know how I got involved with him myself. I didn't even meet him on that occasion."

Partin, after he testified, underwent cross-examination by Edward Grady, Tweel's attorney, and all but conceded that Tweel may have been right in disclaiming acquaintance with Hoffa: "I don't think that Tweel has ever said that he was real acquainted with him." A little later: "I have seen Mr. Tweel associated with Mr. Dorfman in Nashville but as far as Mr. Hoffa, I can't swear to anything that I would pin it down as being closely associated with him."

The government attempted to bolster this confusing testimony by a long, involved story that Hoffa on one occasion had a jury list phoned to Dorfman in Chicago, so that Dorfman could phone it back to Tweel, so that Tweel could phone back to Nashville with information on the jurors. Since Tweel had testified he had never been in Nashville and had no contacts there—and since the government offered no evidence to the contrary—this seems an idiotic procedure.

It is perhaps significant that, even in the atmosphere of the Chattanooga trial, the jury acquitted Dorfman and Tweel. On this aspect of the case, involving the first information he allegedly uncovered after his arrival in Nashville, Edward Grady Partin's story would simply not stand up. One needs to bear this in mind when turning to his accounts of incriminating conversations with Hoffa.

The Spy As Witness

The appearance of Partin upon the witness stand provoked one of the most heated legal battles of the entire trial. It raised fundamental and disturbing questions about American justice.

Partin had hardly begun to testify, had gotten into the record only his account of the conversation with Tweel, when the issue erupted on a defense motion to suppress his entire testimony. The defense attack was led by James E. Haggerty, former president of the Michigan State Bar and a director of the Detroit Bar Association, one of the attorneys for Hoffa. Haggerty's point was simple. He argued that Partin had been planted on the defense in an undercover capacity and had remained in that capacity during the whole of Hoffa's previous trial in Nashville. This, he contended, was as much an "improper intrusion on the defendant's right" as if the government had tapped his telephone lines or bugged his hotel room.

"He [Partin] was in discussion, I might tell you, with lawyers, he had had discussions with me during the trial of the case and to my knowledge discussions with others," Haggerty told Judge Wilson. "He was constantly hanging around, I never knew for what reason. He was in court nearly every day . . . he was at the hotel and Mr. Hoffa's suite where the lawyers conferred at night."

Harvey M. Silets, of Chicago, attorney for Dorfman and one of the sharpest minds in the defense battery, argued that this espionage upon the defense in the midst of trial was illegal, and, if it was, "the famous statement of the Supreme Court that the fruits of the poisoned tree are not any good extends here. . . ." Silets argued such action "taints everything this man touched." It was, he said, as if "Your Honor's law clerk should all of a sudden turn out to be an informer and a spy for the defense. . . ."

Cecil Branstetter cited the Judith Coplon case, washed out because of wire tapping of the defendant's phones and eavesdropping by the FBI on her conversations with her attorneys. He argued that the same principle applied to this direct, in-person eavesdropping.

U.S. Attorney James Neal met the onslaught with an almost-concession and a quibble. It was true, he conceded, that had Hoffa been convicted in the Nashville trial the verdict *might have been* tainted because the government had planted an informer in Hoffa's camp. But this, Neal argued, had absolutely

nothing to do with the *new case* built upon information that informer had gathered. Therefore, the decision in the Coplon case had no relevancy and was not applicable.

Silets was infuriated by this hair-splitting. He recalled that in July, 1963, Federal Judge Frank Gray, Jr., had listened to five days of argument on the defense contention that this new, jury-tampering indictment had been based on illegally obtained evidence.

"I can remember as if it was said a moment ago," Silets told the court, "Mr. Neal in great pain and anguish saying to Judge Gray, Your Honor, there was no eavesdropping. There was no wire tap. There was no illegally obtained evidence. At that time, Mr. Neal must have known that such a thing as what has been perpetrated on this court was in fact in existence because that is the basis that this indictment was returned upon."

Neal countered that "there is no illegally obtained evidence in this case and there is no eavesdropping. Everything that this witness will testify to as things said to him were things intended that he should overhear because they were said to him."

It quickly became apparent that this contention depended upon one's ability to believe that the government had walked a very fine ethical tightrope all during the time it had Partin planted in Hoffa's camp. Neal's position was that Partin had been instructed to gather evidence only about jury tampering—about any law-breaking plots on the part of the defense. It had not been intended, heavens no, that he should gather information about actual defense tactics in the Nashville trial.

Memory Tricks

Partin, examined on this point, instantly displayed a striking mental ambivalence. He could recall in great detail all the conversations he had had with the defendants about their alleged jury-tampering endeavors, but his mind was a blank about trial strategy they might have discussed in his presence. His explanation was that he had been told to remember the jury-fixing details and he "wrote" these down—just in his mind, that is—but he turned off the mental antenna and "wrote down" nothing about anything else. Partin dined constantly with Hoffa and Hoffa's retinue. Didn't the case constantly come up as a topic of conversation, Silets wanted to know. "I don't think it ever did," said Partin blandly. Not at all? Well, maybe, "as far as saying how it goes or something like that."

Time and again, Silets tried to extract from Partin some information he had overheard while tagging at the coattails of Hoffa's attorneys. Partin evaded, finally came up with this: "I didn't say for sure, sir, I said I may have been there when they discussed it, but I didn't remember because I wasn't interested in the case."

Not interested? Could any man, on the showing, have had better reason to be interested?

The defense attorneys from the Nashville trial had far sharper memories. One by one, they took the stand and were sworn in as witnesses. William Buffalino was especially emphatic:

I recall vividly that on the night of the 4th of December, 1962, he [Partin] was in our room, and I will explain exactly what I recall. . . . I was in the process of preparing, interviewing several witnesses, truck drivers, that were in from Detroit. . . . I asked questions and I made notes. These notes were typed in question and answer form. . . . They were typed and Ed Partin helped me staple them. He was carrying copies back and forth from one place to the other.

On the 5th, and the record will show, on the 5th or one of those days when Mr. Neal was interrogating the witnesses, he asked, "Isn't it a fact," or words to this effect, "Isn't it a fact that or were you supplied with questions and answers as to what your testimony should be?"

The Psychic Attorney

That same day, Buffalino testified, there was a second, significant incident. The night before, some five or six defense attorneys had been sitting around the large table in Hoffa's room, discussing trial strategy. Partin was sitting with them, idly shuffling a pack of cards, as he usually was. Buffalino outlined an approach he planned to take the next day when he put a certain truck driver on the stand. What happened when they got into court seems illuminating. Buffalino testified:

The next day when I got on this particular area I started, now, and this is the language, "Now, witness, I bring you back to 1953," and that is all I had to say and Mr. Neal jumped to his feet and said, "I object, Your Honor, they are getting into a different area."

I said, "How do you know where I am going, what I am going to ask?"

He answered, and he said, "Your Honor, I suggest, may I request, that the jury leave this room and I want to argue this particular case in the absence of the jury." The jury left, left the courtroom.

I said to Mr. Neal, "How do you know what I'm going to ask, all I said was 1953?"

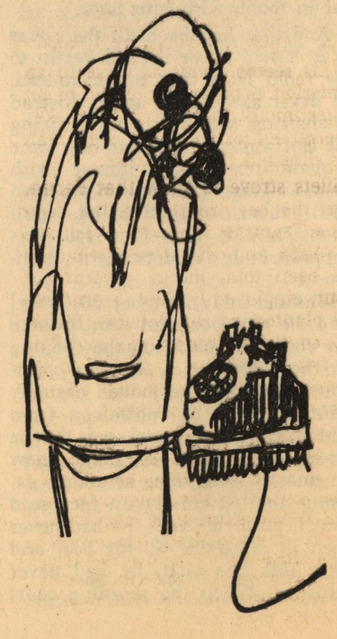
He said, "I am psychic." That's in the record.

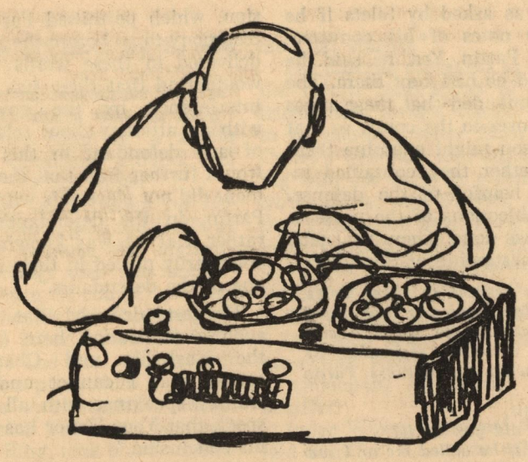
Neal stood and listened to this—and he made no rebuttal. It would seem he had no answer. Indeed, instead of denial, there was from the government a reluctant and partial confirmation.

This came from Walter Sheridan. Called to the stand by the defense, he testified about the manner in which Partin had kept passing him information.

Q. Now, did that information also constitute matters pertaining to the lawsuit that was then on trial?
A. Occasionally.

Sheridan said "the vast majority of the information consisted of the comings and goings of people"; it dealt with matters that, in his mind, were "at least unethical and improper," if not downright illegal. He regularly, said Sheridan, passed this information along to Neal, who





was trying the case. But, in an effort to explain his action, Sheridan insisted, "I don't think any matters relating to the trial" were passed unless they dealt with jury tampering or fell within categories he considered "unethical."

Q. Isn't it true, Mr. Sheridan, on the 4th of December, 1962, Partin informed you that witnesses were being interviewed and that they had written questions available?

A. There was an occasion when Mr. Partin told me that witnesses were being interviewed by Mr. Buffalino and that they had questions and answers and he was going over them.

Q. He did advise you of that?
A. Yes, sir.
Q. Did he tell you who they were?
A. I knew who they were, I think.

This seems about as close to an admission as one could expect to get in testimony coming from a key government official, the very man who directed the operation.

Silets strove to show that Partin, from the beginning, had not been just a Teamster invited to Nashville by Hoffa and told freely what he had been told, but a government agent, employed by the government and planted on the defense. Buffalino, in his testimony, pictured Partin not only as a spy, but as an *agent provocateur*, egging on the defense. Buffalino testified:

I have some recollection that Partin said something about a particular juror, I don't know which one, that he was in the Army with one and he was starting to suggest that maybe he should get in touch with that fellow that he was in the Army with, that maybe when he goes on vacation he would be able to go in and live with juror.

I said, "Look, I want to have absolutely nothing at all to do with any such discussion. Lay off that. We have a cinch case. This case is absolutely nothing. And then so far as I am concerned I suggest you just forget about anything like that."

Silets attempted to follow this trail, to demonstrate Partin's deep involvement with federal prosecutors long before he came to Nashville. But when he tried to question Partin about his multiple indictments, Neal objected and Judge Wilson instantly sustained. Silets next tried to determine just what had been discussed in those conversations with Hawk Daniels and Frank Grimsley. "Well, sir, that is a matter not related to this here at all," Partin told him.

Neal objected; Judge Wilson instantly sustained the objection.

Silets tried again. "I would reluctantly have to say that it doesn't relate to this," said Partin. "It is something of a more serious matter."

Here was a witness who was functioning as his own expert on legal matters, determining in his own mind what was legally relevant and what was not. It is difficult to understand why a witness should have been permitted to decide such issues for himself, but Judge Wilson pronounced for Partin, saying. "I have difficulty in seeing how it is material to the issue that is now before the court."

The whole subsequent course of the trial was to demonstrate, of course, just how material it was. The defense was to establish ultimately, through the testimony of Grimsley and Hawk Daniels, that Partin had become a secret agent in late September or early October — and that he was functioning as one on October 8 when he made his first phone call to Hoffa after attaching to his phone a recording device lent him by the Baton Rouge District Attorney's office. But now, when the issue was vital to the trial's entire future course, the defense was barred from pursuing it.

Silets, trying to demonstrate the absurdity of the prosecution's pretension that Partin was not their hogtied man, asked Partin why he had hung on in Nashville for the entire two and a half months of the trial. Partin said he was there "on union matters and personal matters." "Do you mean for two and a half months you had union and personal matters?" Silets snapped.

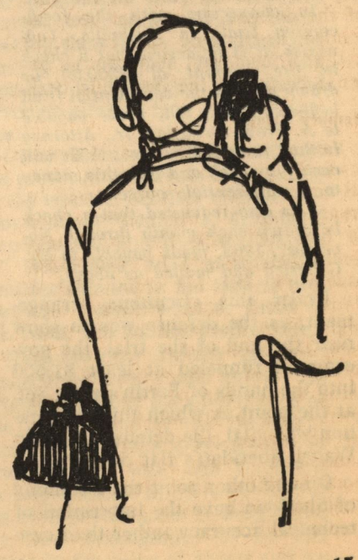
Hoffa's Shadow

Silets demanded to know if Partin had been paid by the government. Partin denied flatly that he had. Silets demanded to know if he had been promised anything. Partin denied flatly that he had.

Q. Will you tell me, please, why did you want to take the assignment from the FBI to come to Nashville to do what you say you were going to try to do for the FBI?
A. I don't know.

Neal roared an objection and Judge Wilson sustained, but the answer had already slipped past Partin's lips.

Judge Wilson decided now to question the witness himself on this



point. Partin denied to the judge that the government had "sent" him to Nashville.

Q. Did they provide transportation for you in Nashville?
A. No sir, they didn't.
Q. Were you in any way in the employ of the United States at that time?
A. No, sir, I wasn't.
Q. But was there any arrangement for the government paying any of your expenses and compensating you in any way in your trip to Nashville?
A. No, sir.
Q. At whose request did you go to Nashville?
A. Mr. Hoffa's. Telephone conversation at Newark, N. J.

This questioning was concentrated upon payments at the time of the Nashville trial in 1962, but when Walter Sheridan took the stand, Silets made the questions all-inclusive. This was the sequence:

Q. Have you ever authorized any payment to Mr. Partin?
A. No, sir.
Q. Has there been, to your knowledge, any money paid to Mr. Partin?
A. No, sir.
Q. Has any promise been made to Mr. Partin?
A. No, sir.

All the time, as Sheridan must have known, there reposed in government files a memorandum from Walter Sheridan himself to S. A. Andretta, administrative assistant attorney general. It was dated July 3, 1963, and it read:

Subject: CONFIDENTIAL FUND ITEM

In connection with the forthcoming trials in Nashville, Tennessee, it is requested that a check in the amount of $300.00 be drawn against the confidential fund beginning July 8th, made payable to A. Frank Grimsley, Jr., Attorney in the Criminal Division. . . . He will cash the check and give this money to a confidential source.

It is also requested that a check be drawn each month through November, 1963, made payable to Mr. Grimsley and mailed as above.

Under this circuitous arrangement, as the defense was to show near the end of the trial, the government funneled at least $1,500 into the hands of Partin's wife; yet, at the point at which this information was vital, the defense had only Walter Sheridan's flat denial.

On one other point the testimony of Sheridan gave the impression of technical accuracy rather than candor. He was asked by Silets if he had taken notes of his conversations with Partin. Yes, he said, he had — and he had kept them. The defense demanded that these notes be turned over to the court, so that Judge Wilson might examine them to see whether they contained information helpful to the defense. Over the objections of the prosecution this was done. Then Neal took over the questioning of Sheridan:

Q. With respect to these notes, Mr. Sheridan, how was that done? Did you attempt to make a substantially verbatim statement or notes of what the witness Partin told you?
A. No, sir.
Q. How did you do it?
A. Well, if he called me or I saw him, I would just make cryptic notes of the high points. As I usually do, of the conversation we had.
Q. In other words, you might put down one word that might be five minutes of conversation?
A. It could be.

The reason for the "cryptic note" technique quickly became apparent. In 1957, the Supreme Court, by its Jencks decision, had ruled that when the government put a witness on the stand it must, as a test of his credibility, give the defense access to any prior statements he had made on the subject matter of his testimony. J. Edgar Hoover objected that this would "throw open" the files of the FBI and expose his secret informants. Under his urging, Congress passed the so-called Jencks Act, watering down the effect of the Supreme Court decision. The act provided that such prior statements should be turned over to the trial judge, who would determine whether they were material to the defense. It also provided that, unless statements were taken substantially verbatim or had been signed or acknowledged by the witness, they did not have to be divulged at all. Neal now took full advantage of this Hoover-created loophole, and in arguments repeated throughout the course of the trial he contended that the defense was not entitled to see the "cryptic notes" of Sheridan or other similar data. And so, in effect, Judge Wilson ruled.

Hoffa Raising Cain

The judge, over protest, upheld the prosecution's theory that Partin had been not its man in Nashville, but Hoffa's. The judge's decision, which permitted Partin's full testimony to go before the jury, was delivered in these words: ". . . I would find that there has been no interference by the government with an attorney-client relationship of any defendant in this case. I would further find that the government did not place this witness, Mr. Partin, in the defendant's midst, rather that he was knowingly and voluntarily placed in their midst by one of the defendants."

Haggerty declared that "there is such a correlation here (between the Nashville and Chattanooga cases) that I cannot understand, frankly speaking, with all due respect, that Your Honor has reached his conclusion."

One might not understand, but one was going to have to listen to Edward Grady Partin.

Partin's testimony pictured Hoffa as a desperate man, intent on rigging the Nashville jury. After the Tippens fiasco, Partin declared, Hoffa was raging. He quoted Hoffa as saying: "The dirty bastard went in and told the judge that his neighbor had offered him $10,000." This meant, Hoffa added, "We are going to have to lay low for a few days."

On another occasion, when Hoffa felt that he had been hurt by some particularly damaging testimony, he confided to Partin, according to Partin: "I would pay $15,000 or $20,000, whatever it costs, to get to the jury."

On Monday, November 5, Partin testified, he encountered Hoffa and Ewing King together in the hallway of the Andrew Jackson. Hoffa was "raising cain at Mr. King" because King hadn't been doing what he had been told to do. Partin said that Hoffa roared at him: "King keeps telling me he can get the patrolman, but he don't get him."

On November 7, Partin said, he went into Hoffa's suite and told Hoffa he didn't think the trial was going very well. "Well, don't worry about it too much," he quoted Hoffa, "because I have got the colored juror [Gratin Fields] in my hip pocket."

Partin said Hoffa explained: "One of my business agents, Campbell, came into Nashville *prior to the trial* and took care of it." (Italics added.) Hoffa, Partin said, was straining every nerve to get a hung jury because, again allegedly quoting Hoffa, "if they have a hung jury it will be the same as an acquittal

because they will never try the case again."

Still later, on November 14, Partin testified, "Hoffa was on King." He denounced King as "a stupid S.O.B. for thumbing around and not getting the job done."

In another conversation on November 19, Partin pictured Hoffa as "very upset because the highway patrolman didn't take the money." There had been, of course, no mention of money in the Paschal case because the Paschals weren't lacking money and all the trooper wanted was a promotion.

All these conversations, except those in which Hoffa was personally berating King, took place, according to Partin, when no one else was present because "Mr. Hoffa never has anyone present when he says something."

In essence, this was all there was to Partin's testimony. Credence depended on the weight one gave his word against Hoffa's word, and on the faith one put in the validity of the prosecution's other evidence concerning the three alleged jury-tampering attempts.

Prophetic 'Fix'

On cross-examination, the defense hammered at Partin for days. Harry Berke hopped instantly on the flaw in Partin's Hoffa quotation on the alleged fixing of Gratin Fields.

Q. Didn't you say this, Mr. Partin, speaking about Mr. Hoffa, he said "One of my business agents, Campbell, came into Nashville prior to the trial and took care of it?"
A. That's correct. That is exactly what I said, sir. You are right.
Q. How could he fix the jury prior to the time when he didn't even know who was going to be on it?

Neal shouted an objection. He argued: "He [Partin] is only telling what Hoffa told him." Judge Wilson sustained the objection. Jacques Schiffer hotly protested that the "question goes right to the roots" of the testimony, and he snapped that "every time we reach that point in cross-examination where we come to a crucial question we are not permitted to receive an answer. . . ."

Later, when Schiffer got his chance at Partin on cross-examination, he returned to the point, and finally got Partin to admit: "It puzzled me how Larry Campbell was going to fix or take care of the colored male juror in the case before the trial started."

The defense struggled to get into the record intimations of Partin's friendliness toward Castro. It tried to introduce a letter from one of Castro's generals to Partin, thanking him for help in training Castro's militia, and it tried to show that Partin had been attempting to lease freighters to run arms into Cuba. But Neal's shouted objections blocked this line of inquiry.

"This is the most offensive thing I have seen in my life," the federal prosecutor stormed.

"Objection, objection," shouted Schiffer.

Judge Wilson sustained Neal and told Schiffer: ". . . you will not be permitted to introduce charges for the purpose of attempting to degrade a witness. We're not here for that purpose."

Schiffer argued hotly that Partin's character was an essential issue; on it depended what credence was to be given to his testimony. He protested that the court was unfairly limiting the defense.

The Court Under Attack

Silets took over the cross-examination and began to delve into Partin's past, especially his early burglary conviction in Bremerton, Wash. Partin protested that he was unable to recall this or a subsequent dishonorable discharge from the Marines. Silets began to read him details from his record, and Partin argued: "It wasn't a burglary charge. You said it was a burglary charge. I said it wasn't." Schiffer hopped in with the angry observation that the witness wasn't answering the questions (indeed, at one point, Partin had begun to ramble off into a discussion about coon dogs), and the argument became heated. Schiffer moved for a mistrial, then asked Judge Wilson to let him withdraw from the case and put Parks "under the protection of the court and let Your Honor defend him because I am being prevented from defending him. . . ." Partin, he said, "defies the order of the court. But the court idly does nothing with this witness, and this is prejudicing my man. . . ."

Judge Wilson, as angry now as Schiffer, snapped: "Just make a note of this in the record. We will take it up at a later time. . . ."

Silets went back to the attack and detailed for Partin the breaking and entering charge on his record, the fact that he had drawn a sentence of fifteen years, that he had twice broken out of prison. "I said, sir," Partin told him, "I remember that I was confined to the reformatory school for something, so evidently if you say that's it, it must have been it, I don't remember the name of the place or who was there or whatever it was."

Silets pointed out that Partin had been able to recall in exact detail his conversations with Hoffa. Why couldn't a man with such a memory remember his own arrest and incarceration? "I don't remember, I certainly don't," Partin kept insisting. "I have never been convicted of but one felony in my life," Partin finally told Silets.

Q. You have pleaded guilty to other offenses, haven't you?
A. Minor fighting or something...
Q. And one of those was assaulting a Mr. Colotto which you plead guilty to on Dec. 2, 1955?
The Court: Sustain the objection.
Silets: I didn't hear one, Your Honor.
The Court: Well, counsel stood up.

During a recess, with the jury out, Haggerty lowered the boom.

"In my forty-one years of experience, mostly in federal courts," he said, "I have witnessed an exhibition this morning up to date that leaves me clearly puzzled and somewhat disgusted."

The witness, he said, had refused to answer questions. He had rambled off into extraneous matters. The prosecution lawyers, Haggerty charged, were sitting there in court, shaking their heads, grimacing and smiling to the jury. He said this "conduct is deplorable and should never be allowed in a court of justice."

Other defense attorneys accused the prosecution lawyers of signaling to the witness; Schiffer charged the "government wanted a drumhead court-martial and they are getting it." When Neal tried to interrupt, Schiffer shouted at the federal prosecutor: "I don't want to listen to Mr. Neal. You subvert justice here."

Haggerty then startled court and prosecution with a new charge. He offered "proof of the surveillance of the government of the Defendant Hoffa and of the defendants and attorneys." It was, said Haggerty, "a very difficult thing to prove, but we have photos taken last night and we have photographs of an FBI agent by the name of Sheets and we

will present that proof this afternoon." He charged that the surveillance "is not casual, it's active, it's organized, and it hamstrings the defendants and the defendants' counsel."

At this point, James Durkin hopped up from the prosecution table and went rushing out of the courtroom.

Branstetter asked the court to instruct Neal not to discuss with Sheets the issue that had been raised. "That wasn't the purpose I sent that man out," Neal almost sputtered, "the purpose I sent that man was to get a subpoena to a well-known wire tapper who was indicted and tried with the Defendant Hoffa, who came into town the other day, Bernard Spindel."

"How do you know that, Mr. Neal, unless you have been surveilling the premises?" Silets demanded. Neal said the government would prove "we don't surveil the defendants or their counsel," but the government "has never said it would not surveil well-known wire tappers."

Schiffer and Neal now exchanged broadsides in a bitter argument. Schiffer, raging, protested to the court that he couldn't use his telephone because "it is being tapped by somebody." He wanted to put Neal on the stand and "let him say under oath that there has been no surveillance in this case, not anything to the effect, 'I know of none.'" The court, he said, relied on the integrity of a government attorney, and "I say he doesn't have it." Neal offered to take the stand and testify "to the very best of my knowledge and belief there have been no surveillance of any counsel." But he added: "I would expect, however, the court to hold Mr. Schiffer in contempt."

"For what? For telling the truth?" Schiffer shouted. "That is the type tactic of the government, as soon as defendant gets up and talks about the malfunctions of justice in this court by these prosecutors, they run to the court and they say, 'Throw Schiffer in jail, hold him in contempt, but leave us alone, Judge. We are the select fellows, we are the masters in this case. The Attorney General appointed us, he hates Hoffa, and we will get Schiffer, too.'"

At 1:30 P.M. this same day, February 7, Schiffer came thundering back from the luncheon recess, angrier if that is possible than he had been when he left. He charged that when he returned to his hotel room after the morning session in court, he discovered his files had been rifled. Schiffer told the court "all of my original documents, and the entire file which I have spent preparing for these many months for this trial on behalf of the defendant Parks was missing." Schiffer said he had been advised that a government investigator had been seen in the hotel about noon and that a federal marshal had been spotted near the door of his room. "This has never happened to me before," he told the court.

Judge Wilson ruled that he would take up the surveillance issue later; in the meantime, he would go on with the trial of the case.

One of the most decided and significant shifts in Partin's testimony dealt with the manner in which the government had paid without paying *him*. On the motion to suppress his testimony, Partin had sworn flatly that no payments had been made; Walter Sheridan had testified that no payments had been made. These assurances had bolstered Judge Wilson in his decision to permit Partin's testimony to go before the jury. Once that decision had been made, once the government had obtained the ruling it had to have, the real truth — a truth that seriously challenged the impression the government had created—began to peep out from under the rug.

On the Money Trail

At the close of his direct examination, Partin described numerous trips he had taken about the countryside — to Tennessee, Alabama, New Orleans — conferring with government agents. Then:

Q. Have any of those expenses been paid to you or indirectly paid to you in any way?
A. Yes, sir, they have.
Q. And how was that done?
A. I wouldn't swear how it was done, sir, I know what was done for, though.
Q. Well, to whom were the payments made? You said indirectly.
A. They were paid to my wife.
Q. Have all of your expenses been paid in that manner, that is, up to date, or are there still some expenses owing to you?
A. They still owe me.

It would seem from the very phrasing of these questions and answers that Partin had little difficulty recognizing that he had been paid, at least "indirectly," and the bland admission contrasted with his earlier flat denials.

This prosecution, which first had cultivated the impression no money was passed, now was admitting payments to Partin's wife, and it was contending, in a further quibble, that the payments weren't really payments — they represented "expense money." Silets, on cross-examination, probed the issue. How, he wanted to know, did it happen that money had been paid to Mrs. Partin?

A. Because I wanted my children taken care of, that's why.
Q. Well, how did that arrangement come about? Did you ask the government to do that?
A. I think they asked me did I have any outstanding things that had to be taken care of and during the course of the conversation I told them I was interested in that.

Partin insisted that he never submitted any vouchers to the government; he never signed anything to show receipt of the money. Well, who had paid for his expenses — Mrs. Partin? No, he had. Then why had the government paid Mrs. Partin? Well, he owed his wife alimony, and he wanted it done that way. How much had his wife received? "I didn't have an idea unless I would ask her," Partin said. "I just don't know offhand, it was around a thousand dollars or maybe more or less, I don't know."

Silets demanded all vouchers and checks covering this weird Partin-Mrs. Partin transaction. The prosecution fought against producing them, arguing they weren't "relevant," but Judge Wilson ordered the documents turned over to the court. In the course of the argument, Neal denied to the court that the prosecution had had any hand in the previous rifling of Schiffer's files, and he intimated that Schiffer had made the whole thing up.

The checks the government turned over to the court were for exactly even amounts, two for $300 each, two for $150 each. Partin must have been an extremely precise man, if the government's contention was correct, to contract exactly the same, even amount of expenses at periodic intervals. Silets, of course, argued that the whole thesis on the face of it was preposterous, that the checks really represented pay for testimony; and he argued that under a law passed by Congress October 23, 1962, it is "a crime" to pay witnesses for testimony.

"That's an unmitigated lie," Neal roared, denying Partin had been paid for testifying.

Neal charged the defense was paying, too. Schiffer retorted certainly it was — mileage expenses and standard one-day witness fees as prescribed by law. Silets, who had been examining the checks during Schiffer's tiff with Neal, now asked to be heard.

"I am flabbergasted by these documents," he told the court. "Apparently the check was issued to Mr. Grimsley, then Grimsley used the check to go to the First National Bank of Atlanta, and with this check having been endorsed by him he has a cashier's check issued by the First National Bank of Atlanta payable to Mrs. Partin. Now, if this is not an attempt to circumvent the meaning of this act of Congress, what is?"

The legal debate now switched away from the mystery of the Partin payments and back to the surveillance issue that shadowed the entire trial. Judge Wilson disclosed that some extensive notes had been delivered to him (these were Bernard Spindel's first intercepts of FBI radio communications), and he was going to study them. However, he said, it wouldn't be "appropriate" to halt the trial to settle this issue. "A hearing will be granted upon the motion after the submission of the case to the jury," he ruled.

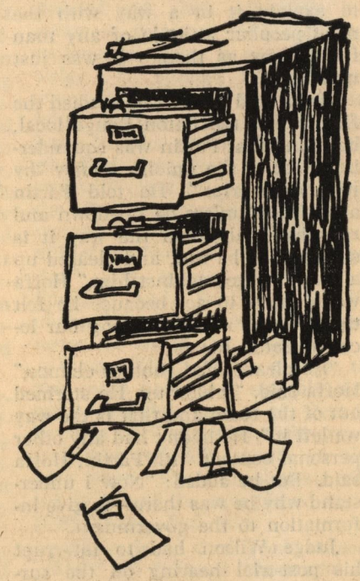
Breaking and Entering

Haggerty protested. One of his younger researchers, he said, had been shadowed to the law library and back at 10:30 the previous night, Sunday, February 9. Two men were still on watch in front of the Patten Hotel. He had seen some of Schiffer's rifled files and could vouch for the fact that records were missing. "We had a door broken in a few doors from mine," he added. "I was not in town over the weekend. It was broken in by force." The door, Haggerty said, was to the room of a man associated with the defense.

"Now, how can we try a case under these Gestapo tactics?" he asked. The defense, he argued, needed help—"and we need it now, not when the case is over."

Judge Wilson was adamant. He would take up the surveillance issue, he ruled, only after the case had gone to the jury.

The testimony about the Partin money payments formed the basis for further probing by the defense. It called A. Frank Grimsley, the Justice Department attorney, to the witness stand. Grimsley testified that, beginning in July, 1963, he had channeled some $1,200 to Mrs. Partin by the devious route of cashiers' checks. Walter Sheridan, he said, "told me I would be receiving some checks." Grimsley never signed any receipts, any vouchers, any forms to show what the money represented; he simply endorsed the checks, got cashiers' checks, wrapped plain pieces of paper around them, put them in envelopes and mailed them to Mrs. Partin.



Grimsley testified the government still owed Partin $343.47 — the first odd figure that had cropped up in the months-long transactions. The arrangements resulted, Grimsley said, from a conversation he had had with Partin in July, 1963. ". . . he said inasmuch as he wouldn't be in circulation too much he had only one request and that was for the benefit and care of his children that he would like to have some money sent to them. . . ."

When Berke took over the questioning, he brought out another facet of the federal government's financial arrangements with Partin. He asked Grimsley if Grimsley didn't know that Partin "was indebted to the United States Government in close to $5,000 in taxes which were forgiven him." Grimsley said he never knew the amount; he had been aware Partin "had some tax difficulties."

The government's tactics in meeting these damaging disclosures were revealing. First, Neal brought out from Grimsley that no payments were made to Partin when he agreed to become an informer in September, 1962, *before* he went to Nashville to spy on Hoffa. No payments, no promises were made to him *then*. Secondly, he stressed that the $1,200 in checks that passed through Grimsley's hands represented only recompense for expenses.

Q. And was it your duty to apply or to pay him for his expenses?
A. Yes.
Q. And did you tell him that you would pay him for his expenses?
A. Yes.
Q. And are these payments for his expenses?
A. Yes, sir.

This desperate clinging by the government to its patently untenable "expense account" contention put Grimsley in an awkward spot when he faced the cross-examination of Schiffer.

Q. Did you receive from this man to whom you gave all of this cash itemized bills, add them up and total them before you paid him any money?
A. No, I did not.
Q. Well, tell me, wasn't the arrangement made you were going to send his wife $300 a month for support?
A. The $150 twice a month.
Q. $150 twice each month. And so it was not based upon what his expenses would be as he told you he was spending money and in expenses, but rather for the support of the children.
A. But we - - -
Q. Is that right?
A. More or less; that's correct, yes.
Q. Did you know the amounts of money and these amounts you have testified to and as reflected by these checks were in fact the alimony or support payments to his family?
A. It could have been, it's the same amount.
Q. Pardon me?
A. It could have been, it's the same amount, $300 per month.

The defense again demanded the records — all of Grimsley's accounts, any government vouchers or

memoranda concerning the transactions. The government fought disclosure, but Judge Wilson in this instance ruled against it. And so the defense obtained the July 3, 1963, memorandum from Walter Sheridan to Andretta authorizing the payment of $300 a month to Partin. According to the memorandum, the amount was to be charged, not to travel expenses, but to the "confidential fund." Silets asked Grimsley what the "confidential fund" was for:

Q. Isn't it true it is used to pay informers?

A. I wouldn't think it would be used that way altogether. . . .

Q. Now, isn't it a fact, sir, that at the time this memorandum was issued that the intention was to make a payment to Mr. Partin and that that was a flat payment of $300 a month? Isn't that true?

A. It appears that way, yes, sir.

Hoffa on the Stand

Against this background of evasiveness and reluctant, forced concession on the part of the government, Hoffa took the stand in his own defense. He branded Partin's testimony "an absolute lie." He was asked point-blank about each of Partin's direct quotes accusing him of jury tampering. Did he ever make such statements? "I certainly did not," Hoffa said. He gave other emphatic answers: "that statement is ridiculous on the face of it," "I flatly deny it," "it's an absolute fabrication."

Partin, he said, had come to Nashville at Partin's own request. He wanted to plead with Hoffa not to put his Baton Rouge local under trusteeship. Hoffa said he had been working with Partin for months, trying to get him to spruce up and run a proper ship. He had not, he said, wanted to take drastic action simply because Partin had multiple indictments against him. Hoffa himself had been indicted, and took the attitude that merely because a man had been indicted he was not necessarily guilty. But the demands of the complicated Nashville trial had been so heavy that he had just had no chance to thrash things out with Partin until near the end of the ordeal, after the pressure was off. In the meantime, it was true, Partin was always hanging around his suite, and after an attempt had been made to break into the room where the defense kept its records, Partin had been employed as a guard at Hoffa's door.

Finally, near the end of the trial, Hoffa said, he and Buffalino sat down and went into Partin's problems thoroughly with him. ". . . I can say that although I have been in this international for some thirty-four years, I had never heard such a story in my life," Hoffa testified. "I just couldn't envision what this man was talking about."

Partin, he said, was "nervous, upset and almost incoherent," and he was "very perturbed" about charges his opponents in the Baton Rouge local were making about his ties to Castro. Hoffa asked him if he was engaged in smuggling arms into Cuba and told him, if he was, "I am not only going to remove you from the local union, I am going to expel you." Partin, he said, "tried to explain it in a way with the most peculiar attitude of any man I ever saw as though it was just nothing."

Hoffa said that, as he studied the finances of the Baton Rouge local, he found that Partin was squandering a lot of the union's money "by just loose trips." He told Partin again that "unless he sat down and ran the local union the way it is supposed to be run, and cleared up all the charges against him," Hoffa would have to act because he felt that Partin "was destroying our local in Baton Rouge."

"He pleaded for another chance," Hoffa said. "It blew up. He stormed out of the room and that is the way we left it." He hadn't had any other personal contact with Partin, Hoffa said. But he added: "Now I understand why he was there—to give information to the government."

Judge Wilson had to interrupt his post-trial hearing on the surveillance issues to accept the jury's verdict convicting Hoffa. The jurors dismissed the jury-tampering charges against Dorfman and Tweel, but they convicted Hoffa, Ewing King, Larry Campbell and Thomas Ewing Parks. Having heard the verdict, the court returned to the taking of testimony on the shadowing of the defendants and their attorneys.

From the start, there were Gilbert-and-Sullivan overtones to this session devoted to the assessment of the damage after the damage had been permitted. Schiffer for the defense started the ball rolling by presenting to the court a sealed twenty-nine-page transcript representing Bernard Spindel's second batch of FBI radio interceptions. Judge Wilson, who had unsealed the first batch when they were presented to him on February 10, exhibited a gingerly disinclination to perform the same function a second time. ". . . the court is just not familiar," he said, "with the practice of a stranger to a lawsuit filing a sealed document in which no attorney and no party alleges to have any knowledge whatsoever."

This precipitated an argument about the prosecution's trial-long penchant for filing sealed documents with the court. Defense attorneys had contended earlier that, in the Nashville trial, Neal had filed with Judge Miller Partin's sealed affidavit regarding jury tampering. This showed, they argued, that the prosecution had planted an eavesdropper in the defendant's midst, compromising his chance for a fair trial; but the court had seen fit to keep the information sealed and secret—it had not protected the defense in its rights, and so it had become in effect an arm of the prosecution.

Sealed Evidence

A similar issue had been raised in the current Chattanooga trial. The defense had insisted from the start that there had been wire tapping, eavesdropping, recordings of telephone conversations. The government had heatedly and repeatedly denied it. It was a denial with a fatal flaw. Too many persons knew that Partin had recorded his telephone calls to Hoffa, and as the pressure by the defense for disclosure mounted, Neal slipped the recordings to the court in a sealed packet. He had not revealed this to the defense, and the defense was still making motions demanding the recordings days after Judge Wilson had received the sealed material.

Finally, on February 20, while Grimsley was on the stand, the truth came out. The defense accused the government of "chicanery"; Neal sneered at the "impeccable Mr. Haggerty"; and Haggerty responded that a fair trial was "absolutely impossible . . . in this atmosphere of fraud created by the government." Judge Wilson said he hadn't known that the defense hadn't known he had the taped Partin-Hoffa conversations; the prosecution certainly should

have made that clear. But he couldn't see that any great harm had been done; the defense would be given access to the recordings at the "appropriate" time. The appropriate time, in the judge's estimation, came February 25, long after Partin had left the stand, when virtually all of the evidence was in and the trial all but completed. The government's maneuver, protected and upheld by the court, had had the effect, it would seem, of depriving the defense of information it should have had at the time it was grilling Partin on cross-examination.

The Wary Judge

It was the memory of this that sent Schiffer into an angry storm when the court made an issue of Spindel's sealed recordings. Schiffer charged that Neal "knew Partin when he testified was perjuring himself, he had the physical documents and hid them in a sealed envelope and then gave them to Your Honor and hid them there, kept the contents from you, kept it from the defendants when he knew that the physical evidence refuted and showed his star witness was perjuring himself and he, as government counsel, put a perjurer on the stand knowingly." The government acted as if it had never heard this particular accusation.

(The recordings showed that Partin, far from being invited by Hoffa, as he had testified, had on the contrary invited himself. The October 8 recording showed Partin first broaching the subject of their meeting in these words: ". . . Ah, what I was thinking, Jimmy, after I get this thing straightened out . . . and everything if you get an opportunity or something, I would like to get with you and talk with you and talk this thing out." Hoffa said simply: "Well, I'll be here [in Washington] all week." Partin's recorded call to Hoffa in Newark on October 18 showed that he again took the initiative in these words: "I hate to interrupt you, Jim, but I need to talk to you on . . . when I can see you — you'd said you'd be there on the 22nd in Nashville — what's the best day to come?" Hoffa said he would be in Nashville on Sunday, the 21st, and Partin wanted to know, "Will Sunday or Monday be all right? . . ." and Hoffa, to his eternal regret, simply said, "Right.")

John Hooker, the Nashville attorney who had been engaged to help the prosecution, disliked the idea of Spindel's second sealed intercept being left like a time bomb, containing God only knew what information that might be disclosed at a later date if a higher court decided to examine it. But Judge Wilson couldn't see why he should open the time bomb. Why, he wanted to know, didn't the defense do it and present the information?

"For a very obvious reason," Schiffer snapped. He emphasized that, under present laws, the FBI can spy upon a defendant to its heart's content, but the defendant places himself in jeopardy if he reveals, through radio intercepts, what the FBI is doing. The Federal Communications Act, Schiffer pointed out, does not make it a crime to intercept such communications; it makes it a crime to *divulge*. If Spindel had divulged, even to Schiffer, who hired him, what the intercepts said, it would have been a crime. Schiffer emphasized that Neal had made it perfectly clear in the argument on the first intercepts that what he wanted was to find "a violation of 605 of the Federal Communications Act." He wanted to prosecute Spindel and Schiffer, Schiffer charged, and he added: "They will never see me in that position."

Even without Neal's charge, the risk must have been nakedly obvious to Spindel. One of his first intercepts on Wednesday, February 5, had recorded FBI agents on this very issue. The control post, talking to one of the cars placed under surveillance, had said:

There is a darn good chance that if this fellow is listening to all you said, there is another good chance if he is, he is recording it, so you might consider that. 10-4.

7: I presume he knows if he is that that's a violation of Federal statutes over which we have jurisdiction. I'm sure he knows that. . . .

Such was the spot in which Spindel found himself when he took the witness stand. He testified that he had not told even Schiffer what was in the intercepts. He had sealed and filed them "as an aid to the court." Judge Wilson was not ecstatic at being so aided. He grilled Spindel on his purpose in filing the first intercepts. He had expected them to be opened and disclosed, hadn't he? Spindel argued: "It was not for me to decide." In this as with the second intercepts, it "was a decision for the court to make."

The court wasn't making it. "I'm giving you no directions, sir," Judge Wilson said. "You are the one that stated what your duty is. Proceed in accordance with your desire."

Spindel said that he would hand the sealed transcript right back to the court.

Silets wanted to know if the court wasn't going to open the packet. "This is your witness. Proceed, sir," Judge Wilson snapped.

Harry Berke interposed. It was "the active duty of the court to himself" to see "if there is anything there that caused this defendant to have his constitutional rights violated." The court, he argued, should "not idly sit by and just let it remain sealed."

"What authority does this court have that any attorney would not have, Mr. Berke?" Judge Wilson wondered.

"Well, I think that the court has more authority than an attorney, if Your Honor please. . . ." Berke responded.

He pointed out that the court had opened the first intercepts.

Judge Wilson protested he had been deceived at that time. "I had no idea that any counsel was attempting to proceed by devious means. . . . The court opened the document thinking all the time that this was a document that everyone knew about. . . . The court now understands that there was some attempt to put something over on the court in regard to delivering a sealed document in that manner."

Search for Justice

Schiffer protested hotly that "there was no devious means used"; Neal had been present, representing the government; nothing had been slipped past anybody. "If the defense attorney has no power . . . to show to the court proof and evidence of that kind of fact [the surveillance], then where does justice in the case rise?" he asked.

It seems like a good question, but Judge Wilson replied that Schiffer's argument was "wholly without merit."

Schiffer again restated the law —that it was no violation to intercept, it was to divulge—and he challenged the prosecution to deny this if he was misstating their position. Neal and the other government attorneys remained silent.

This means then, Schiffer argued, that in a case of "government outlawry," the defendant cannot protect himself, except through the court; and if the court is part and parcel of the prosecution, then the defendant is truly helpless. Schiffer said he had "resisted the attempts of the government to use the court against the defendants," and he charged that "the whole theory of the government here is a frame-up."

Judge Wilson still refused to open the second Spindel intercepts, and so they remained sealed, concealing no man knows what.

Neal, in savage cross-examination of Spindel, clearly demonstrated the government's vengeful intent. He harked back to the Detroit wire-tapping case the government had brought against Hoffa and Spindel. The defense protested that Spindel had been acquitted, that the prosecution had no right now, since he had been adjudged innocent, to splatter him with old charges in a headline-hunting orgy; but Judge Wilson, who had sustained at least one objection to a question about Partin's past before Neal could make it, let Neal continue.

Neal finally began to question Spindel on whether he had told reporters or others that he had intercepts. From page 9159 through 9218 of the record, he hammered at this one point with the obvious purpose of laying the groundwork for a charge based on the contention that, if Spindel had merely said to anyone that he had "intercepts" or "transcripts," he had "divulged."

"It is quite obvious what he is attempting to do, and he has told the press and he has told other people that he is determined to get me on a violation of 605," Spindel told the court. To protect himself, Spindel claimed the privilege of the Fifth Amendment against possible self-incrimination.

When he did, Neal strode toward him, right arm extended, shaking forefinger pointed at the witness, and said with menace: "You are going to *have* to take it, Mr. Spindel."

The defense protested this threatening of the witness under the judge's nose, and Neal apologized.

When testimony was taken about the actual surveillance, it quickly became apparent that the government's position was based on a subterfuge as transparent as its contention that Partin had been paid only for his expenses. The ruse here was that the FBI had never "observed" the defendants, their lawyers or witnesses; it had "observed" only a number of other persons — persons with whom of course the defendants and their attorneys were constantly associated—and any "observations" of defendants and attorneys and witnesses had been entirely accidental and counted for nothing.

Observation by Coincidence

Everett J. Ingram, the FBI's supervising agent in Knoxville, had had charge of the Chattanooga operation, conducted by some twenty-five agents, corralled from FBI offices in Charlotte, Memphis, Atlanta and other cities. Ingram testified that this squad, using some twelve cars, had been devoted exclusively to the task of watching strictly minor figures: William A. Test, George E. Hicks, John Cleveland, Chuck O'Brien and Spindel. "All of the written instructions, all of the oral instructions were that under no circumstances was any defendant to be placed under surveillance, and neither was any defendant's attorney to be placed under surveillance," Ingram testified.

The first trouble with this idealistic interpretation of events arose when Ingram testified about the photographic surveillance the FBI had set up from a point overlooking the Federal Courthouse in Chattanooga. He conceded that 723 pictures had been taken. He conceded that defendants and their attorneys appeared "by accident" in some of these photographs. Hoffa had been photographed some fourteen times; Silets, probably ten; Harry and Marvin Berke about four or five times each; Branstetter, about five or six times; Allen Dorfman, some fifteen times; even Judge Wilson and Neal and Hooker, of the prosecution's staff, had posed unwittingly for pictures. "I didn't know that," Neal said, surprised.

The object of this wholesale photographing, Ingram explained, was to see if persons kept turning up around the courthouse "who might be here for some ulterior motive." But the FBI had never found any proof of this. One man, it was true, kept doing repeat performances, and the FBI did not know just who he was; he might be of significance later.

Though some persons might consider such photographing of defendants and their attorneys clear evidence of surveillance, the FBI contended it was no such thing. It was just watchfulness. This was an argument that it became more difficult to maintain when testimony was taken about who directly "observed" whom. Carl N. Barrett, an FBI supervisor from Knoxville and the man in charge under Ingram, had some difficulty explaining just how innocent it all was.

Take, for example, the very day that Hoffa came to Chattanooga to stand trial. The FBI was on hand, Barrett conceded, and since it could not very well blindfold itself, it "observed" Hoffa. But this observation was unintentional. The man it was really watching like a hawk at the time was William A. Test. Here is the sequence:

Q. Now, did you ever see Mr. Test in the presence of any of these defendants?

A. At a distance.

Q. Well, which defendant did you see?

A. Mr. Hoffa.

Q. Now, where did you see Mr. Hoffa?

A. When he arrived in Chattanooga, the first trip he made here on a Friday of the first week of this surveillance.

Mr. Hoffa Butts In

Barrett testified that one FBI car followed Test to the airport, a second car picked up Test and Hoffa on the way back to Chattanooga, and his car was parked in a shopping center observing them as they drove past.

Q. So in total as far as you recall there were then three vehicles observing Mr. Test and Mr. Hoffa?

A. They were not observing Mr. Hoffa so far as I was concerned, sir.

Jay Hawkins, an FBI agent who aided in coordinating this Test-Hoffa surveillance, also had a bit of difficulty explaining that the watch was all on Test, not at all on Hoffa.

Q. In the course of observing Mr. Test, did you see any other individuals who had been associated with this case?

A. I did.

Q. Which individuals did you see?

A. I saw Mr. Hoffa.

Hawkins admitted that he had "reason to believe" that Test might just possibly be in the presence of Hoffa when he was assigned to surveillance of Test, not Hoffa. He was on watch at the 11th Street entrance of the Patten Hotel when Test—and Hoffa—arrived between 4 and 5 P.M., January 17. "I walked past on 11th Street and saw him [Hoffa] there," Hawkins acknowledged.

Just how had he known in advance that Hoffa, beg pardon, Test, was to be there? He couldn't recall how this information came to him. He had been informed that "Test" was on his way to the hotel, and he had walked past to make certain that "Test" had arrived.

The government and the FBI may perhaps pride themselves on the cleverness of this tactic, but it remains a tactic, and one that must cast doubt on the prosecution's methods. The testimony says clearly that Hoffa and his attorneys were being watched, and the government's sensitiveness on the issue—the expedients to which it went to contend that it wasn't doing what patently it was doing—says that it knew it was trespassing on the defendants' right to a fair trial.

'Justice Itself'

Judge Wilson sentenced Hoffa on March 12, 1964. The term: eight years; the fine: $10,000. The three men convicted with Hoffa—King, Campbell and Parks—were each fined $5,000 and sentenced to three years in prison. Jacques Schiffer, the fiery New York counsel for Parks, was charged by the judge with "willful and criminal contempt," fined $1,000 and sentenced to sixty days in jail. Schiffer's persistent attacks on the administration of justice, Judge Wilson said, had constituted "an attempt to degrade and debase this court." Schiffer asked for a hearing before another judge, which Judge Wilson refused to grant; he then declared that he would appeal the contempt citation to the U. S. Supreme Court.

In passing sentence on Hoffa, Judge Wilson denounced the stocky Teamster boss in scathing terms. Then he said this:

"You stand here convicted of seeking to corrupt the administration of justice itself. You stand here convicted of having tampered, really, with the very soul of this nation. You stand here convicted of having struck at the very foundation upon which everything else in this nation depends, the basis of civilization itself, and that is the administration of justice, because without a fair, proper and lawful administration of justice, nothing else would be possible in this country, the administration of labor unions, the administration of business, the carrying on of occupations, the carrying on of recreation, the administration of health services, everything that we call civilization depends ultimately upon the proper administration of justice itself."

With this view of the role of justice in American society, every American can agree. And that is the transcendent importance of the Hoffa case.

The trial may have begun as the trial of Jimmy Hoffa. It ended as the trial of the system of justice in the United States. For this, the U. S. Department of Justice and Judge Wilson must share at least part of the blame.

The record is poisoned by repeated and admitted distortions by witnesses called by the government.

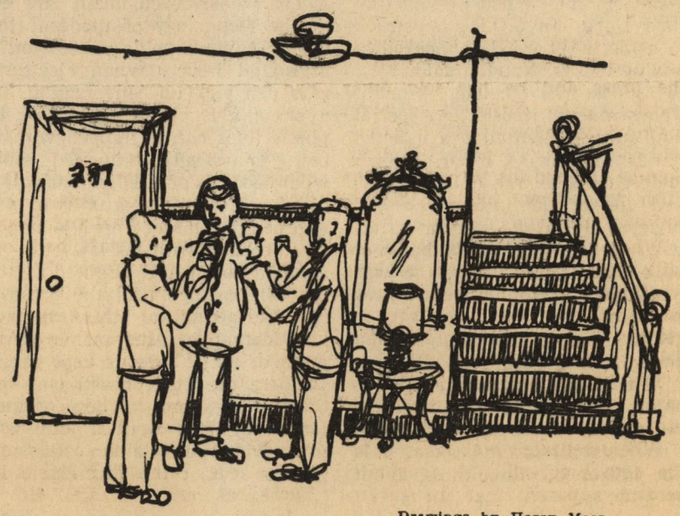
It is a record loaded with suggestions of threat and intimidation, threats of indictment and loss of jobs—and, most significantly, this testimony comes not alone from defense witnesses, who might be discounted, but from prosecution witnesses like Mutt Pitts and Trooper Paschall, who can hardly be discounted.

This is a record scarred from beginning to end with evasiveness, deceit, unfairness on the part of the government—a case born in the impropriety of planting an informer in Hoffa's suite, founded on the quibble that this impropriety did not taint the charge it produced, rationalized by the untenable contention that the informer was not an informer when he went to inform, jeopardized by the statements of government witnesses that the informer was not being paid, and finally discredited by a system of surveillance and espionage of the defense in the act of trying to defend itself, a performance cloaked in the quibble that it was not doing what patently it was doing, a performance that vitiated basic guarantees of the American system of justice.

It does not matter that the defendant was Hoffa. What matters is that it could and did happen. For when this kind of system prevails, any man and every man accused by authority can be condemned, innocent or guilty, on the authoritative justification that he is a bad man and belongs in prison.

The Hoffa case, Hoffa has said, will be appealed to the highest court in the land. It should be—and it should be heard. In the meantime, there are indications that the legal processes of appeal will not halt the jungle war in Chattanooga.

The latest phase of this war was touched off by the activities of Hoffa's investigators in seeking evidence to justify a new trial. On



Drawings by Harry Moss

March 10, Hoffa's attorneys filed with the court a series of affidavits alleging that the government, throughout the trial, had wined and feted the sequestered jurors in an almost unending carousal. The affidavits were from bellhops, elevator operators and other employees of the hotel where the jurors were quartered; all told of liquor being delivered to the jurors and of jurors standing around in the hallway, clinking glasses in hand.

One of the affidavits was signed by Mrs. Dorothy Vaughn, of 420 Oak Street, Chattanooga. During the trial, Mrs. Vaughn deposed, one of the federal marshals in charge of the jurors rented a room from a neighbor, Mrs. Margaret Daves. On the night of February 21, Mrs. Vaughn happened to visit her neighbor and saw a number of gifts scattered on the kitchen table.

Asked who the gifts were for, the marshal replied, "For my jurors." Mrs. Vaughn counted sixteen gifts on the table, the right number if a gift were being presented to each juror and each alternate.

When the gift-wrapping was finished, another federal marshal named Jack Erwin or Ervins came into the house. He was to deliver the packages to the jurors. During the discussion, Mrs. Vaughn asserted, this second marshal said of Hoffa: "That little imped son-of-a-bitch, that cocky bastard. We're doing everything in our power to convict him. We're going to convict him one way or another. We know he's guilty, and we're going to convict him." When the marshal called Hoffa an S.O.B., he struck the table so hard he knocked a glass over, Mrs. Vaughn said.

This post-trial challenge brought a government riposte. A special grand jury in Chattanooga indicted Charles (Chuck) O'Brien, Hoffa's protégé, on a charge of having offered one of the jurors who had convicted Hoffa $25,000 for an affidavit saying that Hoffa had not had a fair trial. Clearly, the war of affidavits, of indictments, goes on and on.

What, then, at this point, are the issues that have been raised by the Hoffa trial in Chattanooga?

They fall into two categories. The first concerns the legal issues raised by the trial itself, and these, it is to be presumed, will be threshed out in the appellate courts. The second concerns the broader, the all-inclusive aspects of the very quality of justice.

The Thin Line of Justice

Justice is more than a process or a set of procedures, important as these are. In the last analysis, justice rests on a state of mind, a climate of opinion within and without the courtroom, a determination to see to it that the rules and procedures are followed and that the rights of the defendant, any defendant, are respected. A thin line always separates the kind of zeal that is justifiable from the ruthlessness which should form no part of the processes of justice. This line vanishes when jungle warfare invades the judicial process.

This, then, is the real issue of the Hoffa trial: Was justice placed in hazard by a form of jungle warfare? To ask the question is to raise the issues that devolve from the trial itself. A cardinal one involves the operation of the Communications Act under which a defendant places himself in jeopardy if he presumes to gather evidence to show that federal agents have him under constant surveillance. Federal agents may use radio communications to aid them in their surveillance, but if the defendant, having intercepted the calls, endeavors to submit what he has heard as evidence, he runs the risk of a criminal charge. Can a defendant properly make his case under such a one-sided arrangement?

The whole development and use of the technology of modern electronic eavesdropping raises other and vital issues. When electronic ears can pick up conversations on a street a block away, when telephone lines can be tapped without being physically tampered with, what becomes of a defendant's right to privacy, of his opportunity to plan and conduct his defense? Where is he to consult with his lawyer — in a soundproof vault? Granted that in the Chattanooga trial the prosecution had a right, a duty, to be vigilant, does this justify some of the methods used?

There are other broad constitutional questions. The original Jencks decision went a long way to provide defendants with safeguards against the formidable investigatory powers of the FBI. Congress itself acted to water down that decision, and the advantage which the prosecution took of the loopholes raises the inevitable question: Has the Jencks decision, in effect, been nullified?

And then there is the problem of the paid informer and the Justice Department's "confidential fund." If witnesses, by Congressional fiat, should not be paid for their testimony, other than regular per diem fees and mileage expenses, how is one to assess the circuitous Partin payments? In Chattanooga, after the government had acknowledged the Partin payments from the "confidential fund," Hoffa charged that this fund totals $600,000 and that it is used extensively to pay informers. Is this true? And how extensive is the use? These are vital questions.

Though the courts may be expected to deal in their own time with the judicial aspects of the Hoffa trial, it is obvious that many of the broader and more fundamental issues posed by that trial go far beyond the limits of judicial review— and that these issues affect justice in the most basic sense. Probably these issues could never have been perceived except through such a clash of power as developed in the Hoffa trial. The average individual defendant does not have the resources to hire experts to prove wire tapping and surveillance, to engage the high-priced legal counsel which only at long last and by maximum effort extracted the information about the Partin payments and the confidential fund. The significance of the Hoffa trial is that, at Chattanooga, two behemoths clashed— the federal government with its overwhelming investigative resources, and Hoffa, heading his own Teamster power complex and able to match power with power. In the collision, basic practices of the Justice Department were exposed; fundamental questions about the processes of justice were raised. These questions must be answered — and only Congress can probe the issues and answer them.

Regardless of the outcome of Hoffa's individual case on appeal, Congress should examine the record to determine whether federal law enforcement is becoming a law unto itself.