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THE TRIAL OF THE U2

THE EXCLUSIVE AUTHORIZED ACCOUNT

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THE TRIAL OF THE U2

EXCLUSIVE AUTHORIZED ACCOUNT
OF THE COURT PROCEEDINGS
OF THE CASE OF

FRANCIS GARY POWERS

HEARD BEFORE THE
MILITARY DIVISION OF THE
SUPREME COURT OF THE U.S.S.R.

MOSCOW

AUGUST 17, 18, 19, 1960

introductory comment by

HAROLD J. BERMAN

TRANSLATION WORLD PUBLISHERS
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INTRODUCTION
By Harold J. Berman*

I.

This book contains the official record of the trial of an American airplane pilot, Francis Gary Powers, for espionage, in the Military Division of the Supreme Court of the USSR on August 17-19, 1960. The record was released, in English translation, by the Soviet Government. This is, then, the official story of the trial, containing, in full, the indictment, the testimony presented in court, the closing speeches of the prosecutor and the defense counsel, the "last word" of the accused, and the verdict of the court. The book also contains some pictures taken during the course of the proceedings by the Soviet news agency TASS.

Writing only two weeks after the close of the trial, one can hardly hope to put it in proper historical perspective. That it has generated an intense interest is apparent from the enormous publicity given to it in the press and radio of virtually all countries. Yet its significance is by no means clear. Perhaps, like the Czech trial of the American journalist William Oatis in 1951, it soon will be recorded as an almost forgotten episode in the "cold war." Yet there are elements in this case which seem to give it a more lasting importance. It dramatizes some of the most acute problems of international relations in our time.

Powers presented himself as a very unconventional spy. According to his testimony at the trial, he had volunteered for the United States Air Force shortly after graduating from a small mid-western college, and he had contemplated becoming a commercial air pilot after his term of enlistment was over, but found he would be "too old and not acceptable" for that. Approached by the Central Intelligence Agency in 1956, at the age of 27, he took a "civilian" job requiring him to make high altitude flights along the Soviet border for the purpose of collecting radar or radio information, at a salary of \$2500 a month. This, he said, was approximately the same salary as a first pilot or captain of an airliner, and he "felt very lucky to get such a job." He was trained to fly a Lockheed U-2—a small, light, unarmed plane designed for altitudes of 60,000 to 68,000 feet—and to "turn levers on and off over specified places." He knew that equipment was installed on the plane for purposes of photographing objects on the ground and recording radar signals, he testified, but he had never seen the equipment. "We were allowed to know only what was necessary for our work." He was just a pilot. When he was assigned the job of flying across the Soviet Union from Pakistan to Norway, he was "scared," but he could not refuse to do it because, as he put it, "By refusing I would have been considered a coward by my associates and it would have been a non-fulfillment of my contract [with the C.I.A.]." His fears were some-

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what calmed by the assurance of his Colonel that Soviet rockets could not reach him at 60,000 feet. When in fact he was forced down over Sverdlovsk, he apparently was willing to tell his Soviet captors all he knew—which apparently was not much—about the intelligence activities in which he was engaged.

This, then, was no Rudolph Ivanovich Abel, Colonel of the Soviet K.G.B. (Committee on State Security), who was convicted of espionage by a federal district court in New York in 1957 and sentenced to 30 years' imprisonment. Abel was charged with having for eight years headed a spy ring in the United States for the purpose of collecting and transmitting to the Soviet Government information relating to arms, equipment and disposition of United States Armed Forces and to the atomic energy program of the United States. Though grilled ceaselessly by the F.B.I. for five days without sleep, and then daily for three weeks, Abel gave no information concerning his activities as a Soviet agent. He pleaded not guilty, did not take the stand to testify, and has never admitted that he was a spy.

Powers, on the other hand, pleaded guilty, took the stand, described his activities in detail, and admitted that he was a spy. He gives the impression simply of one of thousands of ordinary citizens who happen to work for C.I.A.—a technician, a pilot, but hardly a spy! It is perhaps the fact that the image of Francis Gary Powers seems no different from any other airplane pilot who might have been born in Burdine, Kentucky, 31 years ago (his 31st birthday fell on the opening day of the trial), which gives the case a certain initial significance. What is espionage? Is it evil? Is this the kind of person against whose activities espionage laws are passed? Are our concepts of espionage suited to a "space age"?

If Powers behaved unconventionally for a spy, the United States Government behaved even more unconventionally for a government charged with having commissioned a spy. It admitted that it had!

"Spies," states a leading treatise on international law (Oppenheim's International Law, 8th ed., 1955, vol. 1, p. 862), "are secret agents of a State sent abroad for the purpose of obtaining clandestinely information in regard to military or political secrets. Although all States constantly or occasionally send spies abroad, and although it is not considered wrong morally, politically, or legally to do so, such agents have, of course, no recognised position whatever according to International Law, since they are not official agents of States for the purpose of international relations. Every State punishes them severely if they are caught committing an act which is a crime by the law of the land, or expels them if they cannot be punished. A spy cannot legally excuse himself by pleading that he only executed the orders of his Government, and the latter will never interfere, since it cannot officially confess to having commissioned a spy."

Such is the black-letter rule: a government "cannot" officially confess to having commissioned a spy. The Soviet Government

has certainly abided by this accepted international standard! It has never given the slightest official indication that it even knows of the existence of Rudolph Abel. When asked by American correspondents, in connection with the U-2 incident, whether it is not true that Soviet spies are active in various countries, Soviet Foreign Minister Andrei Gromyko replied that the Soviet Government does not engage in such activities. According to international practice he "cannot" say otherwise.

Nevertheless on May 9, 1960, with specific references to the U-2 flight by Francis Powers over Soviet territory, Secretary of State Christian Herter stated:

"In accordance with the National Security Act of 1947, the President has put into effect since the beginning of his Administration directives to gather by every possible means the information required to protect the United States and the Free World against surprise attack and to enable them to make effective preparations for their defense. Under these directives programs have been developed and put into operation which have included extensive aerial surveillance by unarmed civilian aircraft, normally of a peripheral character but on occasion by penetration."

Thus the United States officially admitted that it had commissioned Pilot Powers to fly a civilian unarmed aircraft over Soviet territory for the purpose of obtaining clandestinely information in regard to Soviet military secrets.

This admission did not come easily. It was wrung from the State Department by a Soviet maneuver. On May 5, 1960, Nikita Khrushchev, Secretary General of the Communist Party of the Soviet Union and Chairman of the Council of Ministers of the USSR, made a long speech to the Supreme Soviet of the USSR, toward the end of which he announced that on May 1st an American plane flew into Soviet territory and was shot down. He stated that he would bring the matter before the Security Council of the United Nations, "in order to put an end to aggressive acts by the United States." He denounced the flight at length but gave no further details of it and did not mention that the pilot of the plane had been taken alive.

On the same day, May 5th, a State Department spokesman, referring to Mr. Khrushchev's announcement, told the press that the Department had been informed by the National Aeronautics and Space Administration that

"an unarmed plane, a U-2 weather research plane based at Adana, Turkey, piloted by a civilian had been missing since May 1. . . . It is entirely possible that having a failure in oxygen equipment, which could result in the pilot losing consciousness, the plane continued on automatic pilot for a considerable distance and accidentally violated Soviet airspace. The United States is taking this matter up with the Soviet Government, with particular reference to the fate of the pilot."

At the same time the NASA released a statement describing in detail the plan of the flight, the pilot's report of difficulties with his

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sued such a policy for purely defensive purposes. What it emphatically does deny is that this policy has any aggressive intent, or that the unarmed U-2 flight of May 1 was undertaken in an effort to prejudice the success of the forthcoming meeting of the Heads of Government in Paris . . ."

The summit conference nevertheless broke up because of the hostility created by the U-2 incident and the treatment of it by both sides. Speculation that the Soviet Government would have found other causes to break it up is beside the point; there was no need to find other causes. At the first meeting of the four leaders, Mr. Khrushchev read a statement about the U-2 flight, terming it "provocative" and "aggressive," and stating that agreement could not be sought among the four states

"when the Government of one of the great powers declares bluntly that its policy is intrusion into the territory of another great power with espionage and sabotage purposes. . . . It is clear that the declaration of such a policy, which can be pursued only when states are in a state of war, dooms the summit conference to complete failure in advance."

The only thing that could save the summit conference, Mr. Khrushchev stated, would be a condemnation by the United States Government of the provocative actions of the United States Air Force, a pledge to refrain from such actions in the future, and a calling to strict account of those directly responsible for the violation of the borders of the USSR by American aircraft.

"It stands to reason," he said, "that if the United States Government were to declare in the future the United States will not violate the state borders of the USSR with its aircraft, that it deplors the provocative actions undertaken in the past and will punish those directly guilty of such actions, which would assure the Soviet Union equal conditions with other powers, I, as head of the Soviet Government, would be ready to participate in the conference and exert all efforts to contribute to its success."

Mr. Eisenhower, in reply, said that in previous statements ". . . the position of the United States was made clear with respect to the distasteful necessity of espionage activities in a world where nations distrust each other's intentions." He reaffirmed that "these activities had no aggressive intent but rather were to assure the safety of the United States and the free world against surprise attack by a power which boasts of its ability to devastate the United States and other countries by missiles armed with atomic warheads."

He added that the Soviet statement contains

"an evident misapprehension on one key point. It alleges that the United States has, through official statements, threatened continued overflights. . . . The United States has made no such threat. Neither I nor my Government has intended any. The actual statements go no further than to

say that the United States will not shirk its responsibility to safeguard against surprise attack. In point of fact, these flights were suspended after the recent incident and are not to be resumed."¹

Mr. Khrushchev was not satisfied with a "suspension" of the flights. When he asked Mr. Eisenhower whether he meant a "temporary suspension," the President replied to the effect that the flights were suspended "indefinitely" but that he could not bind his successor in the White House. Mr. Khrushchev took this to mean a suspension until January, 1961.

We cannot understand the significance of the Powers trial unless we realize what lay behind Mr. Khrushchev's demand for a pledge that the United States would not undertake such flights in the future, a statement "deploring" the violation of Soviet territory in the past, and a declaration that the person directly responsible would be punished.

It is perfectly clear that the source of Mr. Khrushchev's unwillingness to participate in the summit conference was not the fact that a U-2 plane had flown over Soviet territory taking pictures of military objects. He had undoubtedly been angry when such flights were initiated in 1956, but he then kept his anger to himself and did not announce that he knew of the flights. Only when he could simultaneously announce that Soviet rocketry had developed to the point that the U-2 could be brought down at 68,000 feet was he willing to divulge that for four years he had been smarting under these flights; for in revealing his past weakness, he could at the same time condemn American violations of international law and secure a certain humiliation of the United States Government (somewhat compensated, however, by a certain pride in American technological superiority which had permitted the flights to go on without interference for four years). What Mr. Khrushchev wanted, then, was an apology—a statement of regret, a pledge of discontinuance, and a promise to call to account those responsible.

The almost universal American reaction to this demand was that it was absurd. The President of the United States, it was said, could obviously never submit to such a self-abasement. Mr. Khrushchev must know that. Therefore the demand could not be serious. Mr. Khrushchev, as a "realist," could not let the summit meeting stand or fall on a mere ceremony.

The American reaction was based in part on ignorance of international law and international custom, and in part on ignorance of, or indifference to, Soviet internal politics. In the first place, it was said by many that espionage is not considered to be a violation of international law, since it is practiced by virtually all states; but it was not added that this is so only because the state which commissions the spy "cannot officially confess" to having done so. The admission of espionage removes the veil of international

¹A record of most of the statements concerning the U-2 incident referred to here may be found in *Events Incident to the Summit Conference*, Hearings Before the [Fulbright] Committee on Foreign Relations, U. S. Senate, 86th Congress, 2nd Session, May 27, June 1, 2, 1960.

legality. (There is no question that espionage is illegal under the domestic laws of all countries; the only question is as to the responsibility of one state, under international law, for violating the espionage laws of another.)

In the second place, many failed to recognize that an intrusion into Soviet airspace at a flight of 12 miles is clearly a violation of international law, regardless of what may ultimately be decided concerning *outer* space. Several international conventions (for example, the 1944 Chicago convention on International Civil Aviation, to which the United States is a signatory) have stated that each state exercises sovereignty over the airspace above its territory. Probably most jurists would agree that such sovereignty does not extend upward indefinitely, but none would exclude the airspace within which airplanes carrying bombs can fly! Indeed aerial incursion is a far more serious threat to international stability than espionage on the ground for it may be mistaken for an air-raid and could conceivably lead to violent retaliation.

But the chief error in the general American reaction was the failure to recognize that it is entirely customary in international relations, and is indeed a principle of international law, that a state which commits a violation of international law is required formally to apologize and to declare that it will take appropriate measures to call to account the persons responsible. In numerous instances such apologies have been demanded and granted. The United States insisted upon such a declaration from Japan in 1937, when Japanese aircraft bombed for three hours and finally sank the United States gunboat Panay and three American vessels in the course of the hostilities in China; Japan expressed her profound regret at the incident, presented sincere apologies, promised indemnification for all losses, and undertook to "deal appropriately" with those responsible for the incident. The International Court of Justice has on occasion required one government to apologize to another for a violation of international law. The international law books say that whenever there is an international delinquency, "at least a formal apology on the part of the delinquent will in every case be necessary" (Oppenheim, *id.*, p. 354).

The very reason which made it seem impossible for the State Department to issue a formal statement of apology to the Soviet Government—namely, loss of "face"—made it seem necessary to Mr. Khrushchev to obtain such an apology, for without an apology the flight must be justified, and any justification is a public humiliation of the Soviet Government. We could justify the flight on the ground that the Soviet Union is a "closed society" planning a "surprise attack"—or we could issue a formal apology: "The United States Department of State regrets . . ."

At first blush all this seems extremely childish. Why should international law require an apology when everyone understands that the government required to make the apology is not sorry? Or why should a government feel insulted when another government merely states what it honestly thinks? Or, to put the question in still more crucial terms, why should a government resent a charge made by

another government when everyone knows that the charge is true? The answer is: the charge itself, the insult, the refusal to apologize, is a denial of the equal rights of the other government; it establishes a double standard; it denies the universal application of the principle. A tongue-in-cheek apology pays lip-service to the principle—in this case the principle of territorial sovereignty; a refusal to apologize adds insult to injury, and declares that we recognize the principle of territorial sovereignty in the case of some countries but not in the case of the Soviet Union.

The requirement of an apology in international law has no analogy in our domestic law. But in domestic law it is easy enough for the aggrieved party to get satisfaction through a lawsuit. If my enemy trespasses on my property I can go to court and get damages—possibly even punitive damages—and an injunction. If a hostile plane intrudes over a country's territory and is shot down, however, there is no easily available judicial remedy against the offending government. Suit can be brought in the International Court of Justice, but many countries (including both the United States and the Soviet Union) do not accept the compulsory jurisdiction of that court in all cases. Moreover, diplomacy requires a more speedy response.

An apology was especially necessary for Mr. Khrushchev in view of what he stands for in Soviet politics. He had staked a great deal on personal diplomacy, on his position as personal representative of the Soviet Union in world councils, on his friendship with President Eisenhower; also he had staked a great deal on his version of the Leninist doctrine of "peaceful co-existence"—namely, that the Soviet Union can participate on a normal basis in international relations generally, and that the strengthening of the legal framework of international relations, the development of increased stability in the world, will enable the USSR to devote more of its resources to economic development and thus to forge ahead of the United States. In his defense of the U-2 flight, the President had betrayed his "friend" by espousing different standards of international law for "open" and "closed" societies. The distinction would permit us to send over Soviet territory not only reconnaissance planes but planes "armed with lethal weapons" (as Gromyko put it).

Moreover, Mr. Khrushchev has stood for increased rationality and legality in the Soviet internal social, economic and political order, always subject to the control, of course, of his own effervescent, impatient, ingenious and sometimes ruthless personality. The substantial increase in legal security of Soviet citizens since Stalin's death in 1953, especially in the very broad realm of political speech, has always been understood to depend in part upon the security of Soviet international relations. When the United States asserted its right of espionage and aerial intrusion, there was bound to be a certain tightening of controls at home. Stalin's myth that the Soviet Union is infested with capitalist spies seemed to take on an aura of reality. Thus our government's statements challenged not only Mr. Khrushchev's foreign policy, but also his domestic policy.

It also challenged his personal position of leadership in the Soviet

x

Union and in the Communist world. Undoubtedly there are many Russians, as well as many Chinese, Czechs and others, who consider Mr. Khrushchev's foreign policy to be based on wishful thinking. In the Communist world, as in the West, negotiation seems to many to smack of softness. The very fact that an American U-2 plane was flying over Soviet territory discredited Mr. Khrushchev in the eyes of such people. An apology from the United States Government was needed to restore his prestige, to provide a symbol of the success of his diplomacy. The refusal to apologize, coupled with the public characterization of the Soviet Union as in effect an outlaw, to whom the ordinary rules of international law do not apply, was bound to undermine his position at home—unless he was able to return blow for blow.

Thus it was not the U-2 flight itself but rather the failure of the United States Government to make the proper accepted ceremonial expressions of regret which caused Mr. Khrushchev to refuse to participate in the summit conference, to withdraw his invitation to Mr. Eisenhower to visit the USSR, and thereafter to denounce the President in a series of press conferences and speeches. Eventually, the expression of regret and repentance which Mr. Khrushchev could not wring out of the United States Government were wrung by the Military Division of the Supreme Court of the USSR out of Francis Gary Powers.

Finally, the Soviet Government wanted to have the United States policy of aerial reconnaissance over Soviet territory denounced as an act of aggression. Here its motive was not only to discredit the United States but also to bring pressure to bear upon various countries surrounding the Soviet Union to withdraw their permission for United States air bases to be located on their territory. On May 13th the Soviet Government issued notes of protest to Turkey, Pakistan and Norway for placing their territory at the disposal of foreign military aircraft to prepare for and carry out penetration of Soviet territory. (Powers had informed his captors that his plane had been based in Adana, Turkey, had taken off from Peshawar, Pakistan, and was preparing to land ultimately in Bodoe, Norway.) In each protest it was stated that should such acts of provocation be repeated, the Soviet Government warns that it will be forced to take appropriate retaliatory measures. Ultimately it was announced that the Soviet Government would send missiles against the bases in order to stop such incursions should they recur.

After the collapse of the summit conference, the Soviet Government called for a special session of the Security Council of the United Nations to consider the Soviet charge that the Powers flight was an "aggressive act" on the part of the United States. After a lengthy debate in the Security Council from May 23 to May 27, the Soviet charge was rejected by a vote of 7 to 2. The incursion of a single unarmed plane for espionage purposes hardly seemed to the majority to warrant denunciation as "aggression" under the U.N. Charter. However, the governments of Turkey, Pakistan and Norway all submitted notes to the Soviet Government, stating that they had no knowledge that such flights were being made from the United

States bases on their territory and that they would take all possible steps to prevent their territory from being used for such purposes.

II.

It was on the background of these events, and of a general deterioration of the international situation which followed them—in Japan, in Cuba, in the Congo, and in American-Russian relations generally—that the Powers trial took place. In one sense it was an anti-climax, for it could only add details and sidelights to what had already been revealed concerning the facts of the U-2 flight. In another sense, however, it offered a dramatic review of the events which preceded it, chiefly through the mouth of the man who was immediately responsible. Moreover, it gave the Soviet Government the opportunity to present those events in the most favorable possible light from its point of view.

It was clear from the start that not only Francis Gary Powers but also the United States Government was on trial. The indictment charged that Powers' flight was "an expression of the aggressive policy pursued by the Government of the United States." Indeed, one of the principal themes not only of the indictment but also of the trial and the verdict, as well as of the extraordinary publicity given to the case by the Soviet Government, was the condemnation of aerial reconnaissance by the United States as a violation of international law and an act of aggression. Thus the United States Government was, in a sense, a co-defendant, although it was not named as such in the indictment, did not testify, and was not represented by counsel.

In addition, the Soviet legal system was itself on trial in the Powers case. The notorious abuses of legal procedures by the Soviet leadership in the past, and especially the extortion of false confessions and of abject self-denunciations from prominent political figures tried for "counter-revolutionary crimes" in the late 1930's, had led to a widespread belief that any Soviet court proceeding is bound to be a sham and a mere propaganda stunt. It was predicted by many American commentators that Powers would be "brain-washed" and that he would not receive a fair trial. Essays were published in leading newspapers and magazines in the West which stated that under Soviet law the accused in a criminal case is at the mercy of the prosecution, that there is no presumption of innocence, that the indictment is tantamount to a conviction, that the accused has no right to counsel, that if defense counsel is permitted he is merely an agent of the state and in effect an assistant to the prosecutor, and that the judges receive their instructions from the Communist Party. In support of these propositions, reference was made to Lenin's statement that "law is politics," and to the accepted Soviet definition of law as an expression of the will of the dominant class. Thus it was widely concluded that Powers would simply be used as a whipping-boy in order to publicize Soviet attacks upon United States policies.

These views reflect a basic misconception of the nature of the Soviet legal system. The record of the Powers trial shows that it

was indeed used in order to publicize Soviet attacks upon United States policies. Not only the Soviet Government and the Soviet press, but the judges, the prosecutor and even the defense counsel made little effort to conceal the fact that they were using the trial as a means of promoting Soviet political objectives. At the same time it was a fair trial, in the sense that Powers did not appear to be "brainwashed" (whatever that means), his lawyer defended him as vigorously as was possible under the circumstances, the trial procedure (though different from our own) preserved most (though not all) of the basic principles of procedural justice, the prosecution was required to prove its case, and the sentence appears to have been a proper one. This combination of the legal and political elements in the case is one of its most striking features, and a source of great confusion to Western observers.

A more detailed analysis of some of the strengths and weaknesses of Soviet criminal procedure, as reflected in the Powers trial, is presented below. The point stressed here is that the Soviet legal system, at its best, seeks to preserve the rights of the accused in criminal cases and to mete out impartial justice, while at the same time it consciously and explicitly uses the trial, and indeed the very safeguards of justice themselves, as instruments of the social and political objectives of the state. For example, the requirement of Soviet law (as of other Continental European legal systems) that even when the accused admits his guilt there must be a trial in which the prosecution proves its case—a requirement which is humane in that it helps to guard the accused against the consequences of a false confession—may serve (and did in the Powers case) as a means of extracting the maximum political value from the trial. Similarly, the fact that the indictment (in contrast with Anglo-American practice) is a long report by the investigator describing all the evidence which supports the charges, affords protection to the accused since it acquaints him in advance with the prosecution's case, but at the same time it can be, and is supposed to be, used consciously as an educational instrument and a means of influencing political thought.

Thus Soviet law and Soviet politics are directly related to each other not only in the political sense but also in the legal sense; that is, the law itself recognizes the relevance of the political, or educational, factor in judicial proceedings. A Soviet trial is supposed to be correct, impartial, just, reasonable, and at the same time it is supposed to serve as an object-lesson to society, a means of teaching the participants, the spectators and the public generally to be loyal, obedient, disciplined fighters for Communist ideals. Law is law, and yet it is intended to serve political ends; it is permeated with conscious political purposes, and yet it is not supposed to be abused.

The result is not the crude melodrama of the Soviet purge trials of the 1930's. The result, at least the intended result, is correct procedure, a proper sentence—and a political victory. Nevertheless, the tension between the demands of justice and the demands of politics can never be entirely eliminated. The fate of the accused is bound to be influenced in one way or another when the trial is lifted above its

individual facts and deliberately made an object-lesson to the public.

The conscious and explicit use of the drama of criminal procedure to educate, train, discipline and mold the minds of the participants, the spectators, and the public generally, while at the same time and for the same purpose preserving the traditional legal safeguards of justice, is a principal key not only to an understanding of the Powers case but also to an understanding of Soviet law in general.

Can such a combination of political and legal elements satisfy the requirements of justice? It is the Soviet thesis that there is no fundamental conflict between the individual and the collective. Social policy, properly understood, can never conflict with justice in the individual case. The Powers case tests that thesis. Was it unfair to Powers to make his trial a "demonstration trial," as Soviet writers term those occasional trials to which various segments of the population are especially invited to be taught an important lesson of a social or political nature? More particularly, was it unfair to Powers to use the trial as a forum for proving the Soviet charges against the United States Government?

Before an answer to that question is attempted, it should be noted that, whether or not it was unfair to Powers, it was unfair to the United States Government. The United States was charged with a variety of offenses: aggression in conducting aerial reconnaissance over Soviet territory, deceit in failing to acknowledge Soviet charges until the evidence of them was overwhelming, violation of international law in conducting aerial incursions into Soviet airspace, violation of international law in conducting espionage activities against the Soviet Union, violation of international law in failing to apologize for these violations of international law. In addition, it was implied that the United States violated international law in sending the U-2 plane over Afghanistan without permission, and possibly in using Turkish, Pakistani and Norwegian bases for purposes to which those countries had not consented. All these charges were made either expressly or by implication in the indictment. Evidence supporting them was introduced at the trial, chiefly by questions put to Powers by the prosecutor. The charges were reiterated and supported at length and in Vyshinskian style in the closing speech of the prosecution. They were not denied by Powers and were in fact supported by his defense counsel. The court, in its final opinion, accepted them as proved. However, the "conviction" of the United States Government by the Military Division of the Supreme Court of the USSR involved a serious procedural flaw: the "co-defendant" was tried in absentia and without representation or defense.

Was it prejudicial to the defendant that these charges were made against his government? Was it prejudicial to him that the trial took place in a special hall with over 2,000 spectators, that it was televised, that prominent representatives of many organizations in various countries were invited to attend, that simultaneous oral translations of the proceedings into English, French, German and Spanish were provided, and that detailed and often one-sided reports of the case in various languages were distributed to the press before, during and after the trial? The excessive denuncia-

tion of the United States Government and the excessive publicity given to the proceedings in the courtroom would probably have been grounds for reversing a conviction under American law; it would not be necessary to show that they in fact prejudiced the defendant's case in any particular way—they would have been considered improper as such, and a denial of his Constitutional right not to be deprived of his liberty without due process of law. (Indeed, in England one-sided press comment in advance of or during a trial is not permitted, on the ground that public opinion should not be allowed to sway the course of the trial even indirectly.) But this only begs the question, for it is the Soviet view that it is not necessarily a denial of the rights of the accused to introduce these political elements into a criminal case.

In some respects the charges made against the United States Government were relevant and material to the Powers case. It was entirely relevant that the State Department and the President had confirmed the fact that Powers had been sent over Soviet territory in a Lockheed U-2 plane in order to procure information concerning Soviet military installations. This was important corroborating evidence that Powers was guilty of the crime of espionage. In addition, the responsibility of the United States Government for the flight, and also its "criminal aggressive actions" and "monstrous crimes directed against the peace and security of the peoples" bore on the question of the sentence which Powers deserved, although their significance in that respect is ambiguous. On the one hand, the fact that Powers was carrying out instructions of his Government could be treated as a mitigating circumstance which entitled him to a lesser punishment than might have been meted out, for example, to a political conspirator who was seeking to overthrow the Soviet Government for "ideological" reasons; and indeed Powers' defense counsel so argued, stressing that Powers was a person without political motivation of any kind who was simply obeying the instructions of his superiors. On the other hand, the fact that the policy of the United States which Powers was carrying out was, in Soviet eyes, a vicious policy with extremely dangerous consequences for the Soviet Union and for world peace, could be treated as a circumstance which aggravated Powers' guilt and which, as the prosecutor stressed, called for a more severe punishment. A great deal of the testimony concerning United States policy was in fact relevant to the question of mitigating or aggravating circumstances—which in turn bore on the question of the sentence to be imposed.

Nevertheless the denunciation of American political leaders and of American foreign policy went far beyond the limits of legal relevance and legal propriety—judged, at least, by traditional Western standards. The State Department's initial subterfuge in asserting that the U-2 plane was engaged in weather research and only accidentally crossed the Soviet boundary, had no bearing upon any legal issue in the case; yet it is stressed in the indictment and in the trial. The allegation that the United States had violated international law in conducting aerial reconnaissance over Soviet territory—though fully supported by legal authority, in this writer's

opinion—is entirely out of place; yet it seems to have played an extremely important part in the case. Indeed, Powers was asked by the prosecutor whether he was aware that his acts were in violation of international law, when in fact the only charge against him was that he violated Soviet law; and great stress was placed on the evidence that there were no markings on the outside of the plane which would identify it as a United States plane, apparently in an effort to show that international legal definitions of espionage, in which the clandestine aspect of the activity is stressed, were satisfied—although the openness or secrecy of the defendant's act had no bearing upon his guilt under the Soviet domestic law of espionage. These and other matters brought in to the case were only remotely related to the guilt or the sentence of Francis Gary Powers. It is possible, and perhaps even likely, that Powers did not suffer any detriment because of the prosecution's excessive emphasis upon the "malevolence" of United States "ruling circles;" indeed he may have benefited by the fact that the Soviet Government was thus able to let off steam about America's responsibility for the deterioration of the international situation. The more beastly the United States Government appeared, the more insignificant the individual defendant seemed to become. The fact remains, however, that the use of his trial as a forum for the elaborate reiteration of charges against a foreign government was not only an abuse of the judicial process by Western, though not by Soviet, standards, but also *might have been* prejudicial—by any standards—to the accused.

III.

From a legal point of view, the case itself is an extremely simple one. Powers was indicted under Article 2 of the Soviet Law on Criminal Responsibility for Crimes Against the State, which makes it a punishable offense for a non-citizen to gather information constituting military or state secrets for the purpose of transmitting such information to a foreign state. This is called espionage in Soviet law, as it would be under American law.² Specifically, Powers was charged with photographing Soviet secret military and industrial installations and tape-recording Soviet radar signals while piloting a Lockheed U-2 airplane 1200 miles across Soviet territory from Peshawar, Pakistan, to Sverdlovsk, at an altitude of over 12 miles. He was caught in the act; he admitted the charge; and the United States Government released statements confirming that it had sent Powers on the flight over Soviet territory for the purpose of aerial reconnaissance. Thus the only legal question in dispute was the measure of punishment, since under Soviet law espionage is punishable by deprivation of freedom from seven to fifteen years or by death by shooting, and the choice of penalties within these limits is at the discretion of the court.

Despite the simplicity of the specific legal question to be decided, the procedure of investigation, indictment and trial presents a complex picture to a person trained in, or used to, the American (or

²The Soviet and the American statutory definitions of espionage are set forth, and citations are given, in Procurator-General Rudenko's closing speech.

English) system of criminal procedure. To a much greater extent it resembles the system which prevails in most Continental European countries, although there are some important differences as well. If United States law had been applicable, and not Soviet law, and if an appeal could have been taken to an American court, the conviction would have been reversed on the ground that the accused was denied certain basic protections secured by the United States Constitution. (Perhaps the same would be true, *mutatis mutandis*, in many countries of Western Europe.) Yet it is unfair to judge Soviet procedure by American legal standards; it can only be judged by universal standards of justice. Only a few suggestions of such universal standards can be made in the short compass of this Introduction, and that is probably best done by a brief expression and critique of the various principal phases of the case.

Preliminary Investigation and Indictment

In any legal system a person should not be indicted for a crime unless the official, or the official body, charged with the responsibility of issuing the indictment has evidence that points clearly to his guilt. However, the procedure for gathering such evidence should safeguard the suspect against wrongful detention and coercion of various kinds. The Anglo-American system of preliminary investigation and indictment has stressed the second of these principles. Our historic writ of habeas corpus entitles any person who is detained for any reason to appear before a court to have the legality of his detention determined. Similarly, a person arrested for having committed a crime is entitled under American law to be "arraigned," that is, brought before a magistrate to have the charges against him formally presented, and under federal law he is entitled to be arraigned "forthwith." Upon arraignment he is entitled to have counsel and at no time is he required to answer any questions that may tend to incriminate him. Connected with the protection of the suspect against detention and questioning is our system of indictment. Whether the indictment is issued by a grand jury or whether, as in many states, it is issued by the prosecuting attorney, it does not purport to be the result of an impartial investigation in which the accused has had the opportunity to furnish evidence in his own behalf. Once the indictment is issued, the prosecution and the defense prepare their cases independently. The indictment only states in summary form when, where and how the accused alleged committed the various violations of law with which he has been charged.³

³It may well be asked how, since American law guards so jealously the right to be arraigned and to have counsel, the Soviet spy Rudolph Abel could have been held incommunicado by the F.B.I. for four weeks prior to his arraignment and subjected to severe pressures to divulge information and to defect. That question troubled the United States Supreme Court, which by a 5 to 4 vote sustained his conviction on the ground that he was an alien arrested by the Immigration and Naturalization Service in a deportation proceeding. Deportation proceedings are not subject to the Constitutional safeguards of a criminal prosecution. The majority of the Court held that since he was properly subject to deportation as an alien who had illegally entered the country, the fact that the F.B.I. took advantage of the opportunity to seize evidence without a warrant and to question him for a long period prior to arraignment was not a sufficient ground to reverse his conviction, as it would have been had he not been properly subject to administrative arrest. *Abel v. U.S.*, 80 S. Ct. 683 (1960).

In Continental European legal systems, and in Soviet law, stress has been laid on the protection of the accused against an ill-founded indictment, rather than the protection of persons against wrongful detention or coercion or self-incrimination. There the indictment is prepared by an impartial official (called a *juge d'instruction* in French law, an "investigator" in Soviet law) after an investigation in which the accused and others have been required to participate. It is forbidden to use coercion or torture in the investigation, and in that sense the persons questioned are free to refuse to answer; but contrary to our "privilege against self-incrimination," unfavorable inferences may be drawn from such a refusal. After a thorough investigation, an indictment is drawn which must list all the evidence upon which the charges are based. The accused must be shown the materials of the investigation and the indictment in time for him to request that additional evidence be obtained prior to its final presentation.

There is a substantial difference, however, between the Soviet system of preliminary investigation and the system prevailing in Western Europe. The Soviet investigator is not subordinate to the court, as in Western Europe, but to the Procuracy. The Procuracy is a body which supervises the administration of justice generally, in the Soviet Union, and which also conducts the prosecution of criminal cases. The investigator is a subordinate official of the Procuracy; appeals from any abuses in the course of investigation cannot be taken, as in Western Europe, to a court but only to the Procuracy. It does not offend American concepts of justice that the indictment is issued by an official subordinate to the prosecutor, but that is because our indictment is a different type of document, and our system of investigation is different; it does offend Western European concepts that the Soviet indictment, though supposed to be an impartial statement of the evidence against the accused, is actually subject to the approval of the office which conducts the prosecution. Thus in the Powers case the indictment was approved by Procurator-General of the USSR Roman A. Rudenko—who conducted the prosecution.

More important, perhaps, is the fact that the accused is not entitled to counsel, under Soviet law, until the very last stage of the preliminary investigation. This is contrary to the general Continental European practice and would be a violation of basic Constitutional rights under American law. The question of right to counsel during the preliminary investigation was vigorously debated by Soviet jurists prior to the reform of 1958. Some urged that a person ought to be entitled to have counsel with him at any time; others argued that the presence of counsel would impede the preliminary investigation. A compromise was effected in the 1958 Fundamental Principles of Criminal Procedure: the accused is entitled to counsel to challenge what might be termed the first draft of the indictment when it is first presented to him, as it must be, prior to its issuance by the court in a preliminary administrative session. Thus Powers was assigned counsel on July 9, 1960, when the preliminary investigation was completed; his counsel could have at that time requested

the investigator to make further investigations or he could have challenged the indictment before it was finally issued by the court on August 10th. This is the significance of Powers' testimony: "... I am satisfied with my counsel. I wanted him to be my lawyer and at my request he was permitted access to materials in the case since the moment when the materials in the investigation were presented to me for my information." Powers' statement is in the language of Article 22 of the Fundamental Principles.

The importance of the fact that the accused may be detained for investigation without the right to see counsel—or anyone else, for that matter—for a period from one month (in ordinary cases) to nine months (with the permission of the Procurator-General of the USSR)—is well illustrated in the Powers case. Powers was held incommunicado from May 1, 1960, to July 9, 1960, before he was permitted to have counsel. A man kept in solitary confinement for a long time tends to lose his perspective; he tends to depend on the investigator to tell him what to say. Even assuming that the investigator is entirely humane, wise and fair, the prisoner tends to lose his capacity to act objectively in his own interests. He becomes, perhaps, excessively worried, excessively eager to bring the investigation to a close, excessively anxious to do what the investigator suggests may be best for him to do. A lawyer representing Powers from the time he was arrested might have been able, for example, to give him valuable advice concerning the consequences of his disclosing classified information upon his return to the United States after the expiration of his sentence.

A second feature of the investigation in the Powers case which must be explained is the fact that it was conducted by the Committee on State Security of the Council of Ministers of the USSR—the K.G.B. We know very little about the actual operations of the K.G.B. It seems to fulfill the functions of both the C.I.A. and the F.B.I. It is empowered also to conduct the preliminary investigation in all cases of crimes against the state (formerly called "counterrevolutionary crimes"). The predecessor of the K.G.B.—known as the N.K.V.D. (and previously as the G.P.U.)—conducted the preliminary investigation of Zinoviev, Bukharin, and other political figures condemned in the purge trials of the 1930's. Theoretically, the Procurator controls all preliminary investigations in criminal cases, but in the purge trials control was in fact taken out of the hands of the Procurator. It is interesting to speculate whether Procurator-General Rudenko, who "approved" the indictment, in fact supervised the investigation of Powers by the K.G.B.

The indictment itself is some 7000 words in length. (A typical indictment in the United States would seldom run beyond a few pages.) It describes at length the evidence upon which it is based, referring to Powers' own testimony in the preliminary investigation, that of various witnesses, that of experts, various documents, the film removed from the plane, *etc.*, *etc.* In addition to describing the evidence, it refers to volumes of materials prepared during the preliminary investigation, which volumes become part of the record of the case. Thus there is no question of "surprise." The accused

knows in advance of the trial what evidence is to be used against him, what witnesses are to be called, and what the theory of the prosecution's case will be; and except in unusual circumstances, no evidence can be produced by the prosecution on trial which was not referred to in the indictment. Thus some of the perils which a criminal defendant must run in an American court are eliminated in the Continental European and Soviet type of trial.

At the same time the Powers indictment—for reasons already indicated—is heavily loaded with political charges against the United States. By Western standards, such matter should have been stricken as "surplusage." Reference is made to "this gangster flight," to "the aforesaid brazen act of aggression," to Soviet protests against "repeated intrusions" by American aircraft, to phrases used by John Foster Dulles, to the "reckless actions of the United States Government" which "have brought about the breakdown of the summit meeting in Paris," *etc.*, *etc.* If Powers had been innocent—and Soviet law states that he could not be assumed to be guilty—such irrelevant denunciations would clearly have helped to create an atmosphere which would have very much hurt his chances of acquittal.

The Tribunal

There are three facts about the tribunal which tried Powers that are striking to an American. First, the trial was held in the Supreme Court of the USSR. The Supreme Court of the USSR sits generally as a court of review of decisions of lower courts; it may, however, at its own discretion, try very important cases in first instance. A consequence of trial in the Supreme Court of the USSR is that the right of appeal, which ordinarily is available to the losing party in a Soviet trial (whether criminal or civil), is lost.

Second, the case was tried in the Military Division of the Court. The Supreme Court of the USSR consists of 11 members. It is divided into three divisions—a Civil Division, a Criminal Division, and a Military Division. The Military Division sits generally as a court of review of cases tried in the military tribunals; these are permanent courts, staffed by professional military judges, which have jurisdiction over military crimes. Formerly, the military tribunals had an extensive jurisdiction over counterrevolutionary crimes, whether committed by military personnel or civilians. The 1958 Statute on Military Tribunals restricts their jurisdiction over civilians to cases of espionage.

Military tribunals in the Soviet Union in general follow the same procedure as the civilian courts. They are bound by the Fundamental Principles of Criminal Procedure. Military judges, though sometimes of high military rank, are essentially professional judges and not "soldiers." Lieutenant-General of Justice Borisoglebsky, Chairman of the Military Division, has had a long career on the Soviet bench. Thus it can be asserted with some confidence that the Powers trial would not have been substantially different in character if it had taken place in the Criminal Division, rather than the Military Division, of the Supreme Court.

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Third, the case was tried by a professional judge and two "people's assessors"—D. Z. Vorobyev and A. I. Zakharov. These are laymen, not jurists. One is a Major General of Artillery, the other is a Major General of the Air Force. All Soviet trials are tried by a single professional judge and two people's assessors. (Appeals are heard by a bench of three professional judges.) The people's assessors are elected for a period of three years, and sit for ten days each year. They are not a jury, for they are as much judges of law as of fact and each has an equal vote with the professional judge. The system of people's assessors was introduced originally in order to bring a popular element into judicial administration. In the course of time, however, they have tended to play a rather unimportant role in Soviet trials. The Supreme Court has a panel of people's assessors—consisting generally of prominent laymen—attached to it for use on the rare occasions when it sits as a trial court.

Powers could have been tried by the military tribunal of the military district in which he was captured. If so he would have had a right of appeal to the next higher military tribunal, and if his conviction had been sustained on appeal he could have petitioned either the Procurator-General of the USSR or the President of the Military Division of the Supreme Court "to protest" the case to that court. Such review on protest is discretionary. As it is, Powers could (and did) petition for clemency to the President of the Presidium of the Supreme Soviet. He also could have petitioned for review by the full bench of the Supreme Court of the USSR, but such review is entirely discretionary.

More important than the structure of the court which tried Powers is the question of its independence. Are those observers correct who suspected that Presiding Judge Borisoglebsky and his two associates were told in advance what sentence to impose? Was the entire trial masterminded from the Kremlin? The Soviet answer is an indignant, No. The Soviet Constitution states that "judges are independent and subject only to law." Communist Party interference in the trial and decision of cases is denounced. Yet Mr. Khrushchev has told us that Stalin personally manipulated the trial of political cases in the past. As long as there are no independent agencies of public opinion free to denounce abuses by the country's top leadership, there will be suspicion of secret manipulation.

Having said this, I shall venture the following guess: that Mr. Khrushchev issued orders to his subordinates that if the judges, the investigator, the prosecutor, the defense counsel, or anyone else connected with the conduct of the Powers case asked for instructions from the Communist Party leadership, they should be told that this case was to be handled absolutely correctly, with strict legality, and that any person who abused the independence of the court would be severely punished. He might have added one qualification: "as long as you are sure Powers will testify that he was shot down at 68,000 feet"—for one of the most important military aspects of this case, from the Kremlin's standpoint, was the announcement to the world that Soviet rockets could reach the U-2.

The Trial Procedure

(a) **Presumption of evidence and burden of proof:**—Soviet law has rejected the phrase "presumption of innocence" but has retained the substance of the doctrine. In effect, the burden of proof is on the prosecution, and no inference of guilt may be drawn from the indictment. This is basically what "presumption of innocence" means. The reason given for the rejection of the phrase—some Soviet jurists argued for its inclusion in the 1958 Fundamental Principles of Criminal Procedure—is that it is not understood properly and is translated into Russian as "The accused is *considered* innocent until proved guilty." This is incorrect, it is argued, since the only significance of the "presumption" is to cast the burden of proof on the prosecution; if the accused were "considered" innocent, he could not even be kept under arrest.

The rule that no inference of guilt may be drawn from the indictment is of special importance in a system of preliminary investigation such as the Soviet. It is sometimes charged against that type of system that the trial is in effect an appeal from the indictment. The tendency to attach excessive importance to the findings contained in the indictment is to some extent counteracted, however, by the requirement that the prosecution must prove the charges contained therein.

The 1958 Fundamental Principles do not expressly state that the burden of proof is on the prosecution, but instead state that the burden of proof may not be placed upon the accused, and also that a conviction may not be based on "assumptions," but can be handed down "only if in the course of the court trial the person has been proved guilty of having committed a crime." These formulations presuppose a trial procedure quite different from the Anglo-American. In the first place, although the burden of proof is on the prosecution in the sense that if the accused is not proved guilty the prosecution loses and he is acquitted, the system of trial procedure permits the proof of guilt to be adduced in a variety of ways and not necessarily by the prosecution. As an American lawyer would put it, the prosecution has the burden of persuasion but not the burden of going forward with evidence. In fact, in the usual Soviet criminal trial—as in the usual Continental European criminal trial—the interrogation of witnesses and of the accused is conducted chiefly by the judges. Thus the court takes initiative in eliciting evidence.

In addition, Soviet law—and Continental European systems generally—do not use the phrase "proof beyond a reasonable doubt." In all cases, criminal or civil, the court, it is said, must be "convinced" of the guilt of the accused or else it must acquit him.

These questions are academic in the Powers case. The proof introduced by the prosecution was overwhelming. Not only was there a full admission of guilt by the defendant and corroboration by his principal, the United States Government, but there were eye-witnesses, expert witnesses, and so-called "real evidence" (equipment of the plane, the film, etc.)

(b) **The effect of the plea of guilty.**—In American law, generally speaking, a plea of guilty dispenses with the necessity of a trial, leaving room only for a hearing on the question of the sentence. In a few states, a plea of guilty is not permitted where the defendant is charged with a capital offense. In the federal courts, the court may refuse to accept a plea of guilty if it wishes. In our system of courts martial, a plea of guilty is not accepted in a capital case. The effect of not permitting a plea of guilty is to require the prosecution to prove its case.

In Soviet law, as in Continental European law generally, a plea of guilty does not relieve the prosecution of the burden of proving guilt. As indicated earlier, this is a humane rule, for it tends to overcome the consequences of a false confession. It is particularly necessary in a system which relies so heavily upon a supposedly impartial preliminary investigation, for the evidence procured during the preliminary investigation may have been extorted by improper means and may be false.

Yet it is a mistake to assume that the accused is always better off because the case against him must be proved. In the course of presenting evidence, the prosecution may succeed in persuading the court to impose a much heavier sentence than it could obtain if the proceedings were limited to a hearing on the question of the penalty to be imposed.

In the Powers case, the rule requiring proof of guilt, despite a plea of guilty by the accused, was indispensable to the political purpose of the trial. One may speculate as to what sentence Powers would have received if he had had a hearing on that question alone.

(c) **Examination and cross-examination.**—The usual pattern of a Soviet criminal trial (as of a Continental European trial) consists of examination of the accused and of witnesses by the court, together with supplementary questions put by the prosecution and defense counsel. A striking feature of the Powers case was the use of the Anglo-American cross-examination technique whereby witnesses are asked a series of specific questions requiring relatively short answers, the questioning being conducted by the opposing lawyers. The reasons for the adoption of this method of adducing testimony in the Powers case are probably threefold: in the first place, both Procurator-General Rudenko and Defense Counsel Grinev participated in the Nuremberg trials, where the Anglo-American methods of examination and cross-examination made a very favorable impression on Soviet jurists; in the second place, it may be surmised that it was thought that this method would make the trial seem more fair to American audiences who are used to it; in the third place, this method gives a strong impression of spontaneity and yet is able to be very largely rehearsed in advance. To an American lawyer Powers' testimony gives every appearance of having been thoroughly prepared. Rarely will a witness answer questions so briefly and so precisely without extensive coaching in advance; also on several occasions Powers repeated his testimony in almost identical words. This is not to suggest that the testimony was false. It is impossible to tell from the trial record whether or not it was,

and reports of eye witnesses are almost uniformly to the effect that it sounded genuine. But unquestionably Powers was well coached by his lawyer.

Yet despite the use of a technique of examination and cross-examination similar in some ways to that used by American lawyers, the trial procedure was entirely contrary to American practice. With use, the prosecution first calls *its* witnesses (each of whom is first examined by the prosecutor and then may be cross-examined by the defense counsel), and then after the prosecution rests, the defense calls *its* witnesses (who may be cross-examined, in turn by the prosecutor); and the defendant is not a witness for the prosecution. The cross-examination is limited generally to matters raised on direct examination. In the Powers case, the first witness was the defendant, who was examined by the prosecutor! Thus Powers was convicted in the first instance on the basis of his own testimony. (Under Soviet law he could have refused to testify, but such refusal would have entitled the court to draw the inference that his refusal to testify was an admission of guilt; in any event, Powers wanted to testify, since that was his best chance of obtaining a lighter sentence.)

It should be noted that the witnesses are called, in Soviet (and Continental European) practice, by the court, not by the lawyers, and in the Powers case it was the court which determined that Powers should be called first and that he should be examined first by the prosecutor.

(d) **Right to counsel; mitigating and aggravating circumstances.**—The accused is entitled to counsel, under Soviet law, but it is said by some that the Soviet defense attorney is not a champion of his client's rights but rather a servant of the State. Soviet jurists, on the other hand, claim that the way in which the defense counsel serves the cause of socialism is by protecting the rights of his client. There is abundant evidence that in many cases Soviet lawyers have vigorously championed their client's rights, and abundant evidence that in many cases, notably the purge trials and other political cases, they have not. What kind of a job did Mikhail I. Grinev do for his client Francis Powers?

In his closing speech, Grinev stated that the defense counsel's task is "to submit for the consideration of the court everything that can favorably affect the destiny of the defendant." He showed a certain diffidence in this respect, however, for he prefaced the statement with the words, "regardless of what crime the defendant has committed and irrespective of the indignation it has caused among the Soviet public." Yet he warmed to his task as he proceeded.

Some American lawyers have suggested that Grinev should have advised Powers to plead not guilty, should not have put him on the witness stand, and should have confined his own efforts to breaking down the prosecution's case. This indeed is what Rudolph Abel's lawyers did in a parallel situation in the United States. But Abel was convicted and sentenced to 30 years' imprisonment! Moreover, under Soviet procedure, as has already been indicated, Powers was called to the stand by the court. Finally, he had already ad-

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mitted his guilt during the preliminary investigation (before he had counsel) and that was a matter of record at the trial.

Grinev played his part, in this writer's opinion, with consummate skill. His tactic was to draw a picture of his client as a particular type of person—a type of person entitled to a light sentence. Both through the testimony which he elicited from Powers and through his closing speech, as well as through Powers' closing statement, Grinev succeeded in conveying the desired picture so vividly that it has been widely accepted by the spectators at the trial and by the reading public. If the picture he conveyed was indeed a true one, that may have made his task easier, although experienced trial lawyers will testify that it is often more difficult to convey a true picture of a criminal defendant than to convey a false picture.

What is the image of Powers which Grinev sought to convey? It was the image of a young man of working-class background, rather simple, completely a-political, influenced by a materialistic environment to place a high value on monetary reward; a person lacking in curiosity, ignorant of the wider implications of his mission, a victim of forces beyond his control; yet honest, obedient, frank to admit the truth when he is confronted with it; naive, rather than mercenary; a person with limited horizons; a cowardly person—posing no real threat to the Soviet Union—yet cooperative and sincere. Although he was an officer in the United States Air Force, he testified: "Unfortunately nobody but myself knows I could not kill a person even to save my own life. I could not do it." He had not realized when he took his job with C.I.A. that he would be ordered to fly over the Soviet border and would be given other assignments later. Brought by circumstances to realize that his flight was a serious crime and a grave threat to peace, he was profoundly sorry that he had undertaken it.

This may or may not be the true image of Francis Gary Powers. If it is, he was certainly the wrong man for the job. In any event, it is the image of a man who should not be punished too severely. Why, Grinev asked, should a powerful and self-confident Soviet State wreak vengeance on so pitiable a creature? The true villains, he argued, are the Central Intelligence Agency and the American military; if they had been sitting in the dock, clearly Powers "could undoubtedly expect a considerable mitigation of punishment."

This was the image. It fitted the Soviet law on mitigating circumstances. Under that law (Article 33 of the 1958 Fundamental Principles of Criminal Law), the court, in passing sentence, is directed to consider the following as mitigating circumstances which entitle the accused to a more lenient punishment:

"(1) prevention by the guilty person of the harmful consequences of the crime, or voluntary compensation for the injury done, or elimination of the harm caused; [Powers, Grinev argued, had cooperated fully with the Soviet authorities after his capture and was cooperating fully at the trial.]

"(2) commission of a crime as the result of difficult personal or family circumstances; [Powers had taken his first job with the

United States Air Force because he was unemployed and could not find other suitable work; he had taken his job with the C.I.A. to pay off his debts and become independent of his parents.]

"(3) commission of a crime under the influence of threat or coercion or because of material or other dependence. [Powers, Grinev argued, did not undertake the flight of his own volition but acted under orders of his superiors.]

.....
"(8) sincere repentance or voluntary surrender and admission of guilt." [Powers stated several times in the course of the trial that he was repentant and sorry for what he had done; he testified that he offered no resistance to his capture; he admitted his guilt.]

Prosecutor Rudenko's picture of the defendant was quite different. He portrayed Powers as a trained, ruthless spy. "All Powers' actions show that he is by no means a weak-willed and blind tool, a robot in the hands of the American Intelligence Agency and the Pentagon, whom they used for espionage, subversive activities and aggression. He is a dangerous criminal. He cannot plead compulsory fulfillment of an order for, having voluntarily sold his honor and his conscience, the whole of himself, for dollars, he undertook to carry out any criminal acts, that is, he acted from mercenary and base motives. He did not commit his crimes merely by a method, which, as the law says when defining circumstances aggravating responsibility, was to the general danger, but by a method fraught with danger for millions and millions of people. He consciously committed a crime with consequences of a gravity which cannot be measured by the scale which we are accustomed to apply in determining the gravity of a crime. Such is the true face of the Defendant Powers."

Yet because, said the Procurator-General, Powers had sincerely repented, the court should not impose the death sentence but rather the maximum period of deprivation of freedom, 15 years. (This is now the maximum Soviet sentence, except for death, for any crime.) Under the Soviet law on circumstances which aggravate responsibility (Article 34 of the 1958 Fundamental Principles of Criminal Law), the following types of circumstances are listed:

"(1) commission of a crime by a person who has previously committed a crime; [Rudenko brought out that Powers had flown along Soviet borders in the past, and over the territory of various countries whose permission had not been obtained.]

"(2) commission of a crime by an organized group;

"(3) commission of a crime with mercenary or other base motives;

"(4) serious consequences arising from the crime;

.....
"(9) commission of a crime by a method that constitutes a general danger."

Neither the list of mitigating circumstances nor the list of aggravating circumstances purports to be exhaustive. The codes of the various republics may add to the list of aggravating cir-

circumstances; the list of mitigating circumstances may be added to the republican codes and also by the court in passing sentence.

(e) "The last word". — In Soviet criminal procedure the accused is entitled to make a statement to the court after the argument is closed and the court is about to retire to consider its verdict. A few states of the United States have a similar rule. The accused's "last word" is customarily very short, in Soviet practice, and more or less in the style which Powers used.

It may be noted in passing that under Soviet procedure the closing argument of the defense counsel is made *after* the closing argument of the prosecution. This seems sensible. It is contrary to American practice, however.

(f) **The sentence.** — Four and one-half hours after the close of the argument, the court returned to read its opinion, which followed the line of the closing speech of the Procurator-General though in milder language. The sentence, however, was more lenient than that which he had requested. It was a sentence of 10 years' deprivation of freedom, of which the first three years were to be served in prison. This means that after three years, the remainder of the term is to be served in a corrective labor colony.

Under Article 44 of the 1958 Fundamental Principles of Criminal Law, after a person has served one-half his sentence he may be paroled by the court, or the unserved part of his sentence may be commuted, if he "has shown by his exemplary conduct and honest attitude toward work that he has reformed."

Since the period of detention prior to trial is counted in the sentence, Powers will be eligible for parole on May 1, 1965. However, his sentence could be commuted at any time by the Presidium of the Supreme Soviet.

IV

We may view the Powers case in many different perspectives: as a human drama of an American intelligence officer caught in the toils of grim international politics; as an example of Soviet law in action; as a complex problem of the international law of espionage, aerial intrusion, and apology; as a tragic episode in "cold war" diplomacy.

Many of the human elements are omitted from the picture as presented by the record of the trial: the struggle of Powers' father and of Powers' wife to make contact with him and to bring him aid and comfort, the frustrations which they endured at the hands both of the State Department and of the Soviet Government, their appearance finally as spectators at the trial by permission of the Soviet Government, their visits with the prisoner after his conviction—these aspects of the story must be gleaned chiefly from the newspapers. One sidelight appears in the trial record: Defense Counsel Grinev, in proving that his client was of a poor working-class background, introduced in evidence photographs showing how Powers grew up and the house in which he lived. The photographs had been given to Grinev by Powers' family. Thus strenuous efforts to see him, their trip to Moscow with American lawyers at their side (and American doctors as well, for both Powers' wife and his mother

were ill), and the conversations of their lawyers with Grinev prior to the trial, were not entirely fruitless. Perhaps the pictures offered in evidence were important not so much for what they told of the defendant's "class origin" but chiefly as a reminder to everyone that Powers' wife and parents were present in the courtroom and were deeply concerned about his fate. It would not be easy, as a matter of compassion or as a matter of policy, for the court to risk the collapse of Powers' mother, sitting in the audience with a serious heart ailment. Moreover, the Powers family gave the appearance of poor, simple folk, deeply emotional, entirely unable to cope with the fate that had suddenly overtaken them; they were perhaps the best corroborative evidence of the image of the defendant which the defense sought to convey.

The efforts to secure representation by American counsel for Powers make another story—one which has a diplomatic as well as a human interest. Undoubtedly the defense could only be conducted properly by a Soviet lawyer; but the presence of an American lawyer, at an early stage, to consult with both the defendant and his Soviet counsel would have been extremely helpful. Under the Roosevelt-Litvinov exchange of letters in 1933 it had been agreed in principle that Americans charged with crimes in the Soviet Union and Soviet citizens charged with crimes in the United States should be entitled to representation by lawyers from their own respective countries. The exchange of letters did not reach the stage of formal agreement, however, and thus Powers had no *right* to American counsel under Soviet law (although there is nothing in Soviet law which would have prevented his being granted the *privilege* of American counsel). Belated efforts by two lawyers of the Virginia Bar Association, representing Powers' wife, to procure permission from the Soviet Government to consult with Powers and his counsel prior to the preparation of the indictment met with refusal. Ultimately they were permitted to see his counsel shortly before the trial, but no American was permitted to talk with Powers until after his conviction.

Nor has the United States Embassy in Moscow been permitted to see Powers at any time up to this writing (which is two weeks after his conviction). The United States Government has called this a breach of Soviet international obligations, since normally a person charged with a crime in a foreign country is permitted to rely upon the assistance of his government's accredited representatives. Yet the United States complaint in this instance seems weak; for the United States Government admittedly had sent Powers, an American intelligence agent, on a mission of aerial surveillance over Soviet territory. It might give advice to Powers which would be hostile to Soviet interests; it might gain intelligence from Powers concerning Soviet military secrets gathered on his flight or during his detention.

These are only a few of the grimmer aspects of the case which do not appear in the record of the trial. Indeed the record of any trial rarely gives more than glimpses into the real story of the events which give rise to it. A judicial proceeding is primarily a

method of deciding what ought to be done in a given situation and only secondarily a scientific investigation of the truth. It is concerned with what happened only insofar as what happened is thought to be relevant to a possible decision, a possible outcome of the case. We cannot know from the record of the case, for example, whether Powers stated the truth when he said that he was "profoundly sorry" that he had committed a "grave crime"; we can only infer that he made these statements in the belief that they were relevant to the sentence which the court would hand down, and that both the prosecutor and the court accepted them. Similarly, although great pains were taken to prove that Powers was shot down at 68,000 feet, we cannot know that this is so; we can only know that there was uncontradicted testimony to that effect—which testimony served the interests of both sides. Indeed, the trial record can only tell us what went on in the courtroom. Its lasting value is in what it reveals about the trial itself, about the legal system of which the trial is a part, and about the way in which that legal system deals with the issues which the trial presented.

About the Soviet legal system, the record of the Powers trial tells us a great deal. It illustrates many features of the law-reform movement which followed Stalin's death, and particularly the 1958 legislation on criminal law, criminal procedure, and crimes against the state. As compared with what his situation would have been under the pre-1958 Soviet law, Powers' rights were considerably enhanced. Previously espionage was defined more loosely than it is in the new legislation. Also it was termed a "counter-revolutionary crime" and not simply, as now, a "crime against the state." These changes in language reflect a somewhat higher degree of objectivity. Previously Powers would not have been entitled to defense counsel at as early a stage in the proceedings. Previously—and this is, from Powers' standpoint, one of the most crucial reforms—he would have been liable to a maximum period of confinement of 25 years, instead of 15. And equally important, he will now benefit, presumably, from the very considerable liberalization of the system of detention which took place in 1954-1956 and from the more lenient rules with respect to parole which were enacted in 1954. Under the 1956 law on corrective labor colonies he will be entitled to have periodic visits from his wife as well as many other privileges which previously did not exist.

These reforms, part of a much larger law-reform movement, are important not only in themselves but also as symbols of Khrushchev's pledge to develop a more rational, a more lawful, and a more humane social and political order than existed under Stalin. It is likely that if a "Pilot Powers" had been captured in Stalin's lifetime he would have received a much harsher sentence, and also that he would have been induced to denounce his government as "imperialist" and "aggressive"—instead of being permitted to respond, in effect, "thou sayest," to the question whether the flight was a violation of international law.

The fact that Stalin's successors have attached increased importance to the positive role which law can play in maintaining a stable

order at home is an encouraging sign that they also attach increased importance to the positive role which law can play in maintaining a stable international order as well. In this respect, too, there is some comfort to be derived from the Powers case, and especially from the impressive appeal to international law which Procurator-General Rudenko made in condemning the U-2 flight. The more the Soviet leaders become attached to international law, whether out of self-interest or otherwise, the more hopeful are the chances of building world peace.

By the same token, however, the fact that certain features of Soviet criminal procedure, as reflected in the Powers trial, infringe basic rights of the accused is a source of discouragement to those who hope to find in law a common ground upon which peace can be built. The possibility of detaining a person incommunicado for months prior to his indictment casts a shadow over all subsequent proceedings. Above all, the deliberate use of a trial as a means of political education threatens the integrity of the judicial process. In the Powers case, the introduction of a host of political irrelevancies and the reiteration of exaggerated charges of American "aggression" debased the trial even though it may have had no adverse effect upon the defendant. As James Morris wrote in the *Manchester Guardian Weekly* after witnessing the case, "Through the whole proceedings there stalked the beastly images of war, power, fear, and propaganda, acting impartially for the accusers and the accused." The failure to draw the proper lines between law and politics has especially serious implications for the development of international law, where those lines are in any case more indefinite than in most areas of domestic law. Yet unless they are drawn *somewhere*, international law degenerates into mere propaganda.

The record of the Powers trial is therefore an important document not only in the annals of Soviet law, and of the comparison of Soviet legal concepts and procedures with those of other countries, but also in the annals of international law. In addition it contains important implications for diplomacy. Of course one cannot begin to untangle the web of diplomatic disasters which followed the U-2 incident by a reading of the record of the Powers case, for that record presents only the Soviet view and not that of the United States or other countries. Nevertheless the Powers trial provides a starting-point for thinking about how similar tragedies are to be avoided in the future.

It is certainly to the best interests of the United States, and not only of the Soviet Union, to strengthen the principle which excludes the military aircraft of one country from the skies of another. Scholarship in the field of comparative law might be enriched but no reasonable person would be happy if we were to witness the trial of a Soviet espionage pilot shot down over American territory. Moreover, it is certainly to our best interests that a single standard of international law be maintained; to argue that the U-2 flight was not illegal because it was an act of self-defense against a totalitarian power bent on conquering the world is extremely dangerous for us, since if we declare that the Soviet Union is not entitled to the pro-

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Monday, July 11, 1960

IN THE STATE SECURITY COMMITTEE
UNDER THE USSR COUNCIL OF
MINISTERS AND THE PROCURATOR'S
OFFICE OF THE USSR

The State Security Committee under the Council of Ministers of the U.S.S.R. has completed investigations of the case of the American spy Francis Gary Powers, who intruded into the bounds of the Soviet Union in a Lockheed U-2 plane on May 1, 1960, with the purpose of collecting espionage data, and who took air photographs of industrial and defense objectives, and also collected other information of a reconnaissance nature, and was shot down by a rocket at an altitude of over 20,000 meters.

Criminal proceedings are being instigated against Powers according to Article 2 of the Law on Criminal Responsibility for Crimes Against the State (espionage).

The Indictment against Powers has been approved by the Procurator-General of the U.S.S.R., and the charge against Powers, in conformity with Articles 9 and 16 of the Regulations on Military Tribunals, has been submitted to the Military Division of the Supreme Court of the USSR for hearing.

INDICTMENT

At 5:36 A.M. Moscow time on May 1st, 1960, an unknown plane violated the state frontier of the USSR at a point 20 kilometers (13½ miles) southeast of the town of Kirovabad, the Tajik Soviet Socialist Republic, intruded into the airspace of the Union of Soviet Socialist Republics and proceeded into Soviet territory at an altitude of 20,000 meters (65,600 feet).

The plane which violated the Soviet frontier was tracked continuously by units of the Soviet anti-aircraft defense. This surveillance showed that the plane's route lay over large industrial centers and important defensive objectives of the Soviet Union. Throughout the entire flight, the plane remained at an altitude of 20,000 meters (65,600 feet) at which no flights were made by any civilian planes. The obtained data left no doubt that this was a deliberate incursion with hostile aims into the airspace of the USSR.

In view of this, the Soviet Government ordered the plane to be shot down. In fulfillment of this order, a unit of the Soviet anti-aircraft defense brought the aforesaid plane down by a rocket, with the very first shot, at 8:53 A.M. Moscow time, when it was at an altitude of 20,000 meters (65,600 feet) in the area of Sverdlovsk, that is over 2,000 kilometers (1343 miles) from the point where it crossed the frontier of the Soviet Union. The pilot of the plane bailed out and was detained. The very first interrogation established that he was Francis Gary Powers, a citizen of the United States of America (Volume 1, pages 20-23; volume 2, page 2; volume 7, page 6).¹

The examination of the plane's wreckage and of the special equipment it carried established that it was an American plane of the "Lockheed U-2" type, designed for flights at great altitudes, adapted for intelligence purposes and, to this end, equipped for aerial photography and radio reconnaissance from great heights. Found among the wreckage were films of Soviet airfields and other important military and industrial objectives in the Soviet Union. Moreover, a ferro-

¹References in parenthesis are to legal documents gathered in the case.

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magnetic tape was found with a recording of the signals of certain Soviet radar stations (Volume 1, pages 49-52, 128-146, 227, 228, 248-253).

The preliminary investigation, conducted by the State Security Committee under the Council of Ministers of the USSR, established that the espionage flight of this plane had been organized with the knowledge of the Government of the United States by a special American intelligence unit based in Turkey and known under the code name of "Detachment 10-10" (Volume 2, pages 2, 3, 13, 177, 217).

When Comrade N. S. Khrushchev, the Chairman of the USSR Council of Ministers, disclosed this gangster flight in his report to the session of the Supreme Soviet of the USSR on May 5th, 1960, a spokesman of the U.S. Department of State admitted on the same day that the fact of the violation of the frontier of the USSR by an American plane was "entirely possible" but would be of an accidental, unpremeditated nature.

According to the statement of the Department of State, a "Lockheed U-2" plane had on May 1st engaged in weather research, "took air samples" in the upper layers of the atmosphere in the area of the Soviet-Turkish frontier, and strayed off course because of a failure in oxygen equipment. This statement by the Department of State said further that the pilot had probably lost consciousness, and the plane continued on the automatic pilot and accidentally intruded into the airspace of the Soviet Union.

This version was confirmed on the same day in a statement by the National Aeronautics and Space Administration of the United States, which allegedly had the control of the aforesaid plane which, according to the statement, had been used to study gust-meteorological conditions found at high altitude. According to the National Aeronautics and Space Administration, a search for the missing "Lockheed U-2" plane had been started in the area of Lake Van in Turkey.

The same version was given in the note of the U.S. Embassy in Moscow delivered to the Ministry of Foreign Affairs of the USSR on May 6th of this year.

On May 7th, addressing the session of the Supreme Soviet of the USSR, the head of the Soviet Government, N. S. Khrushchev, exposed the falseness of this version and revealed the following

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facts which proved beyond doubt the premeditated, perfidious and gangsterlike nature of the violation of the Soviet airspace by the American "Lockheed U-2" plane, and also the intelligence purposes of its flight which were incompatible with the elementary requirements of the maintenance of normal relations between states in peacetime.

After that, the Department of State, cornered by the facts cited by Comrade N. S. Khrushchev, had to admit in its new statement of May 7th of this year the intelligence nature of the flight made by the "Lockheed U-2" plane, noting, however, that "insofar as the Washington authorities are concerned, there was no authorization for any such flights as described by Mr. Khrushchev."

If this statement by the Department of State still left open the question of the U.S. Government's direct implication in the aforesaid brazen act of aggression against the Soviet Union, all doubts on this score were dispelled by the statement made by U.S. Secretary of State (Christian A.) Herter on May 9th in the name of the United States Government.

Secretary of State Herter announced in his statement, unprecedented in the history of international relations, that in accordance with the National Security Act of 1947, President Eisenhower had put into effect since the beginning of his administration directives to carry out intelligence operations against the Soviet Union. Under these directives, as noted by Herter, programs had been developed and put into operation providing for the incursion of American reconnaissance aircraft into the airspace of the USSR.

Herter's statement was confirmed on May 11 by U.S. President Eisenhower himself, who also admitted that flights by American planes over the territory of the Soviet Union had been and remained the "calculated policy of the United States." The same was said by the Government of the U.S. in a note to the Soviet Government of May 12th, 1960.

Especially brazen and shameless was the television speech by U.S. Vice President Nixon on May 15th in which he not only confirmed the cynical statements that American overflights of the territory of the Soviet Union were a calculated policy of the United States, statements made earlier by Herter and Eisenhower and violating the standards of international law, but went even further.

Nixon declared that the United States needed a "continuous pro-

gram" of espionage, and sought to justify the obvious lie in the May 5th statement by the U.S. Department of State about the "meteorological research" allegedly conducted by the "Lockheed U-2" plane. In other words, he was upholding for the United States of America the "right to espionage."

These statements by the Secretary of State, the President and the Vice President of the United States were an official confirmation of the hostile activities which were conducted by the United States of America with regard to the Soviet Union over a number of years and expressed in repeated incursions by American planes into the airspace of the USSR for intelligence purposes.

Thus, the Government of the U.S. officially proclaimed in peacetime a policy which can only be followed in conditions where countries are in a state of war.

During Eisenhower's tenure as President of the United States, that is, beginning with January 1953, the Soviet Union made several protests to the Government of the U.S. against the incursion of American planes within the boundaries of the USSR.

In assessing these violations, the Soviet Government pointed out that "these violations of the frontiers of the Soviet Union by American military planes are connected with the fulfillment of definite assignments of the American military command." (The note of September 8th, 1954.)

Protesting resolutely against such acts, the Government of the USSR stressed repeatedly in its notes to the Government of the U.S. that these intrusions "are a gross violation of the elementary standards of international law" (The note of September 8th, 1954), and constitute "premeditated actions by certain U.S. circles aimed at aggravating the relations between the Soviet Union and the United States of America" (The note of July 10th, 1956).

In reply to all these notes, the Government of the U.S. limited itself to formal answers.

The repeated intrusions by American planes within the confines of the Soviet Union are a flagrant violation of the universally recognized principle of international law establishing the full and exclusive sovereignty of every state over the airspace above its territory.

The principle whereby "each state has full and exclusive sovereignty over the airspace above its territory" was anchored in the

multipartite Paris Convention on the Regulation of Air Navigation of October 13th, 1919, taken up in the Havana Convention of 1928, concluded by a number of American States, and reproduced in Article I of the Convention on International Civil Aviation concluded in Chicago on December 7th, 1944.

The same principle of complete and exclusive sovereignty of a state over its airspace found expression also in the national legislation of various countries, including the Soviet Union and the United States of America (The Air Commerce Act of the U.S. Congress of 1926 and the Civil Aeronautics Act of the U.S. Congress of 1938).

Article I of the Air Code of the USSR of 1935 also lays down that "the Union of the Soviet Socialist Republics exercises the full and exclusive sovereignty over the airspace of the Union of Soviet Socialist Republics."

This principle of sovereignty is sacred and immutable in international relations.

In these conditions the above statements of President Eisenhower of the United States, Vice President Nixon and the United States Secretary of State Herter by which they attempted to justify violations of the USSR sovereignty by American aircraft and elevated such violations into a principle of the state policy of the United States can not be regarded otherwise than as an open declaration of the refusal of the United States Government to comply with the fundamental universally recognized standards of international law, without the observation of which normal relations between states are impossible.

The repeated intrusions of American aircraft into the airspace of the USSR, specifically the flight of the "Lockheed U-2" plane on May 1st of the current year, constitute a gross violation of the sovereignty of the USSR and an act of aggression which tramples upon standards of international law and the high principles of the United Nations Charter which also bears the signature of the United States of America.

With the present level of military techniques, in the conditions when, as responsible American military leaders have repeatedly declared, the United States of America is constantly keeping aloft patrol bombers carrying atomic and hydrogen bombs, reconnaissance flights involving the photographing of possible bombing targets and the spotting of radar installations represent composite

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elements of a military attack from the air.

Under such conditions, the intrusion of a foreign aircraft into the limits of the USSR can at any time be an indication of the beginning of an armed attack. Moreover, there is nothing to guarantee that any such plane appearing over Soviet territory does not carry a deadly load.

The aggressive act of the United States of America in the form of arrogant invasion of the airspace of the USSR by an American military aircraft represents an action which directly jeopardizes world peace. In the conditions when certain states possess nuclear weapons and means to deliver them to targets almost instantaneously, the aggressive act undertaken by the United States on May 1st, 1960 against the Soviet Union might have had most grave consequences for humanity.

The abovementioned statements of the United States Government leaders, and the note of the United States Government of May 12th of the current year lay heavy stress on the alleged civilian nature of the "Lockheed U-2" plane shot down near Sverdlovsk.

The materials of the investigation prove the falsity of these claims.

An identity certificate number AF 1,288,068 carries the insignia of the United States Defense Department with the inscription "Department of Defense, the United States of America." (Volume 1, page 99; volume 6, page 11.)

Asked whether the possession of such a certificate indicated that he was employed as a United States Air Force pilot, Powers replied:

"It means that I served in the United States Air Force as a civilian." (Volume 3, page 180.)

Asked further how the institution in which he worked should be regarded—as military or civil—Powers said:

"This is a kind of combination of civilian and military service, all this is covered and ciphered by the name of 'Detachment 10-10.'" (Volume 2, page 2.)

Powers testified that approximately in April 1960 the Chief of Staff of the United States Air Force, General Thomas D. White visited the Incirlik airbase (Turkey) with the special purpose of inspecting the "10-10" detachment. (Volume 3, pages 92, 93.)

Asked who else of the military, besides General White, had visited the Incirlik base, Powers said that, during his stay at the Incirlik

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base it was visited on two occasions by (Lieut.) General Frank F. Everest, the Commander-in-Chief of the United States Air Force in Europe, and by other American generals. (Volume 4, pages 28, 211.)

It has thus been established that the "Lockheed U-2" plane shot down on May 1st, 1960 belonged to the United States Airforce.

The criminal breach by the United States Government of the universally recognized standards of international law represents one of the elements of the aggressive foreign policy pursued by the United States Government. This aggressive policy was repeatedly formulated by United States leaders, in particular by former Secretary of State of the United States John Foster Dulles as "from positions of strength policy," "deterrent policy," and "the policy of balancing on the brink of war."

As late as July 1959, the United States Vice President Nixon in an article published by *Life* magazine again highly praised the so-called "policy of balancing on the brink of war" and declared that this policy remained one of the supreme principles of the United States of America.

As is known, this policy was manifested in the conclusion under the United States aegis of aggressive pacts and alliances in nearly all parts of the world, in the arms race, in the establishment of a net of military bases around the borders of the Soviet Union and other socialist countries as well as in other aggressive actions endangering universal peace and security.

Expressions of the same policy were the systematic intrusions of aircraft of the United States Air Force into the limits of the Soviet Union, including the aggressive intrusion by an American "Lockheed U-2" military aircraft on May 1st, 1960.

The reckless actions of the United States Government have brought about the breakdown of the Summit Meeting in Paris and complicated the international situation.

The United States Government has drawn into the realization of its aggressive policy a number of states bordering on the Soviet Union, which have lent their territories for American military bases and consequently are accomplices in the aggressive actions against the USSR.

It has been established by the investigation that the intrusion of the American "Lockheed U-2" aircraft on May 1st could not have taken place without the use of military air bases on territories of

states lying close to the Soviet Union, specifically of Turkey, Pakistan and Norway in view of the fact that the maximum range of the "Lockheed" U-2" aircraft being what it is, it could not operate from the United States territory.

It has been established that the reconnaissance "10-10" detachment in which Powers served was based on the American-Turkish Incirlik airbase.

The unit was under the command of Colonel Shelton of the United States Air Force.

The "Lockheed U-2" plane in which the aggressive intrusion into the boundaries of the Soviet Union was carried out on May 1st of the current year, was flown from the Incirlik base to the Peshawar military airbase in Pakistan, from which it flew to the Soviet Union. This involved a breach of the sovereignty of Afghanistan over the territory of which the afore-mentioned plane flew unlawfully, without the knowledge of Afghan authorities.

Asked what reserve airfields were indicated to him for his May 1st flight, Powers said:

"As reserve airfields I could use any airfield in Norway, Pakistan and Iran." (Volume 3, page 88.)

It has also been established that according to his assignment after ending his flight, Powers was to land on the Bodoe military airbase in Norway which had been already used by the "10-10" intelligence detachment on previous occasions.

These circumstances have been established by the testimony given by Powers, his flight map and other evidence (Volume 2, pages 9, 28, 180, 196-198, 304; volume 6, page 25).

Instructions given to Powers envisaged the possibility of a breach of sovereignty of other states as well. On this question Defendant Powers testified:

"In case of a shortage of fuel to fly to Murmansk along the planned route, I could turn to the left before reaching Kandalaksha and fly via Finland to Bodoe, Norway." (Volume 2, page 241.)

The instruction given to Powers envisaged the possibility of landing, if need be, on airfields in Finland or Sweden.

This is what Powers testified on this matter:

"This word 'Sodankyla' written along the green line (the line on the flight map) means that I could land at Sodan-

kyla airfield (Finland). However, Colonel Shelton has warned me that this airfield is bad and that I may use it only in case of emergency since in any way it is better than to land somewhere on Soviet territory. He also said that it is best of all to land in Sweden or Norway, the latter being more desirable." (Volume 2, page 271.)

This testimony given by Powers is confirmed by the marks found on his flight map. (Volume 6, page 25.)

Thus the investigation of the present case once more confirmed the fact that American military bases established on the territories of certain foreign states constitute a danger to peace and to the security of nations.

For the realization of their aggressive policy of espionage against the Soviet Union, the government and the military command of the United States for a number of years have been selecting and training the necessary personnel. It was for this purpose that the defendant in this case, Francis Gary Powers was recruited.

During the investigation Powers testified that in 1950 he volunteered for the United States Air Force, underwent training at an Air Force school in Greenville, Mississippi, and later on at an airbase outside Phoenix, Arizona. After graduation he had served as a pilot at various United States military airbases with the rank of first lieutenant. (Volume 3, pages 109-113; volume 4, pages 43-45.)

In April 1956, Powers was recruited by the United States Central Intelligence Agency to fly special reconnaissance missions on specially equipped high-altitude aircraft. (Volume 2, pages 88-92, 103, 178; volume 4, pages 45-49.)

When Powers was recruited, the tasks he was to perform were explained to him. In this connection Powers testified:

"They said that my main job would be flying the aircraft along the USSR borders to pick up any information I could about radar and radiostations and any other information that could be picked up. They also said that there might be other duties in the future if everything went well." (Volume 4, page 47.)

After that he signed a secret contract with the Central Intelligence Agency of the United States headed by Allen Dulles and pledged in writing to keep this cooperation secret. Powers was warned that for violating his pledge and divulging information about

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the activities of the American Intelligence Service he is liable to be punished by criminal law by ten years in jail or fined \$10,000, or both. (Volume 2, pages 92, 103-104.)

Indeed Chapter 37 on "Espionage and Censorship" of the United States Legal Code contains Clause 793 which stipulates such punishment for offenses specified above.

Powers testified that for the fulfillment of espionage assignments of the American Intelligence Service he was given a monthly pay of \$2,500, although when he served in the United States Air Force he was paid \$700 a month. (Volume 2, pages 2, 91.)

After being enlisted by the American Intelligence Service he was sent for special training to a desert airfield in Nevada.

At this airfield which at the same time is a part of an atomic testing ground, for two and a half months he studied the high-altitude "Lockheed U-2" plane and received instruction in the operation of equipment designed to intercept radio and radar signals. Piloting aircraft of this type, Powers made high altitude long-range training flights over California, Texas and the northern United States.

For secrecy's sake, the spy pilots who underwent training at this airfield were registered under fictitious names. In particular, Powers was registered there under the name of Palmer. (Volume 2, pages 192-194; volume 3, pages 45-51; volume 4, pages 47-52.)

After special training Powers was sent to the American-Turkish Incirlik military airbase near Adana where the reconnaissance unit, known under the code name of "10-10" detachment was stationed.

This detachment assigned to conduct intelligence work against the USSR by sending spy planes into the airspace of the USSR to gather information on military, industrial and other important objectives for the sake of camouflage was officially subordinated to the National Aeronautics and Space Administration (NASA). (Volume 2, pages 195, 217; volume 4, pages 52-56, 62, 313.)

Concerning the certificate found on Powers which was issued on January 1st, 1959, he stated that this certificate "says that I have the right to pilot a U.S. Air Force plane. It was issued to me in the detachment "10-10" on airbase in Incirlik. The certificate was issued to us in the name of NASA." (Volume 3, page 183.)

On orders of the "10-10" detachment command, Powers made systematic intelligence flights since 1956 in a special high-altitude

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"Lockheed U-2" plane along the Soviet borders with Turkey, Iran and Afghanistan. (Volume 2, pages 8, 177, 178, 237-239.)

Powers said of these flights:

"We would take off from Incirlik airfield and would fly eastward as far as the town of Van, situated on the lake of the same name. After that we would proceed to Teheran, the capital of Iran, and having passed it would fly eastward, to the south of the Caspian Sea. After that I usually flew to the south of Meshed, crossed the Iranian-Afghani frontier and further along the Afghani-Soviet frontier . . . not far from the eastern frontier of Pakistan a turn was made and we returned to the Incirlik airfield taking the same route. Later on we began making a turn earlier, after penetrating into the Afghan territory for about 200 miles." (Volume 3, page 9.)

Powers further pointed out that during his intelligence flights in this area he was told to use as emergency airfields, in case of a possible landing, the airfields of Meshed and Teheran in the territory of Iran. (Volume 3, page 87.)

The course of Powers' flight over the territory of the Soviet Union on May 1st, 1960 was carefully prepared in advance. This is indicated by the fact that this flight was entrusted precisely to Powers, who familiarized himself with Bodoe airport in Norway as early as 1958.

As established by the investigation, on April 27th, 1960 Powers was brought in a transport plane of the United States Air Force from the Incirlik Air Force base to Pakistan—the Peshawar airport. Colonel Shelton and a party of 20 people from among the maintenance personnel of the "10-10" detachment arrived simultaneously at Peshawar base to prepare this flight. The specially fitted-out "Lockheed U-2" plane was flown there from Turkey by another pilot of the "10-10" detachment. (Volume 2, pages 179, 197-198, 240-244; volume 3, pages 6-7; volume 4, pages 59-60.)

On the night of May 1st, 1960, two and a half hours before take-off, Powers was ordered by Shelton to fly over the territory of the USSR from south to north at an altitude of 20,000 meters (65,600 feet) along the following route: Peshawar, the Aral Sea, Sverdlovsk, Kirov, Archangel, Murmansk and to land at Bodoe airport in

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In accordance with the orders he received, Powers when flying over certain points of the Soviet territory was to switch on the special equipment with which the plane was fitted out for aerial photography and registration of the operation of radar stations of the Soviet Union's anti-aircraft defense system. On Shelton's orders Powers was to give special attention to several places on his course and to two points—at one of which a missile-launching site was supposed to be located and at the other, an especially important defense objective.

Powers carefully complied with all these instructions. Powers took off in his "Lockheed U-2" plane from Peshawar airport, climbed to an altitude of 20,000 meters (65,600 feet), flew over the territory of Afghanistan, intruded in the airspace of the Soviet Union for more than 2,000 kilometers (1343 miles) from the frontier. The navigation instruments and the special equipment functioned faultlessly during the flight.

Throughout the flight Powers felt normal and plotted intelligence data on his flight map. In the area of Sverdlovsk Powers' plane was shot down by the Soviet rocket troops. (Volume 2, pages 4, 9, 28, 37-39, 179-181, 198, 199, 239-244, 254-260, 268-271, 273, 274; volume 3, pages 20-23, 60, 61, 132-134, 142-145; volume 6, page 25.)

Asked about the circumstances under which the plane he piloted was shot down, Powers testified:

"... quite unexpectedly I heard a kind of hollow explosion and saw an orange flash. The plane suddenly pitched down and, I think, its wings and tail started falling off. Perhaps the plane was not hit directly and the explosion took place near the plane and it was hit by the burst and fragments... I think it happened at the altitude of some 68,000 feet... I was shot down some 25-30 miles south or southeast of Sverdlovsk. At the moment I was keeping to the route indicated on my chart rather accurately... when the plane began to fall down I was pressed to the central panel and could not use the catapult. I opened the canopy, unfastened the straps and got out from the plane through the top. The parachute opened automatically." (Volume 2, page 182; volume 4, pages 256-257.)

The testimony of the accused, material evidence and expert conclusions have shown that the plane piloted by Powers was equipped

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with a special blasting device permitting the pilot to blow it up in case of a forced landing in Soviet territory. Moreover, there was a blasting machine in the tape recorder designed for registering the signals of Soviet radar stations. (Volume 1, page 228; volume 2, pages 209-210; volume 5, pages 30, 84-91.)

Powers was provided with a special pin with lethal poison from the curare group. This pin was given to him, as Powers declared, to commit suicide in case he was tortured. (Volume 1, page 37; volume 2, pages 10, 93; volume 5, pages 261-262.)

All these plans and the carefully thought-out measures of precaution were intended to avoid the exposure of the United States ruling quarters' aggressive policy and to deceive world public opinion.

Besides the poisoned pin, Powers was provided with: a noiseless pistol and cartridges, a dagger, a pneumatic rubber boat, a set of topographical maps of the European part of the USSR and the adjoining countries, means for kindling a fire, signal cartridges, an electric torchlight, compasses, a saw, fishing tackle and other implements and things, as well as 7,500 Soviet rubles and valuables (gold coins, rings, wrist watches) which, as Powers testified, were given to him by Colonel Shelton when he boarded the plane and were designed to bribe Soviet people in case of a forced landing in Soviet territory.

All this equipment was taken from Powers after he was detained. (Volume 1, pages 21-22, 34-41, 67-72, 81-83, 161-188; volume 2, pages 46-48, 219-220; volume 3, pages 244-250, 257-264; volume 4, pages 1-7, 16-21.)

Witnesses V. P. Surin, a driver; A. F. Cheremisin, a worker; L. A. Chuzhakin, a driver; P. E. Asabin, an invalid; and many others who witnessed how the "Lockheed U-2" plane was hit by a rocket in the area of Sverdlovsk and who detained pilot Powers when he parachuted down, have testified to the following:

V. P. Surin: "On May 1st, 1960, approximately at 11 A.M. local time, when I was at home in my apartment, I heard a sharp noise resembling that of a jet plane, but much shriller. This got me interested and I ran into the street to find out what was up. Then I heard an explosion and also saw... a column of dust... At the same time I sighted a cloud of smoke in the sky and a white object which was

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coming down. I followed it with my eyes and when it came lower I saw it to be a descending parachutist. When all this was happening, driver Leonid Chuzhakin, whom I know from my work, pulled up next to me in his car. When he got out of the car I pointed to the descending parachutist and we started watching where he would land. Some time later, we saw that he was landing on the shore of a rivulet near the high voltage line. Chuzhakin invited me into his car and we drove to the place where the parachutist landed. Some 50 meters (164 feet) from there, Chuzhakin stopped the car and we ran to the spot where the parachutist came down." (Volume 4, pages 328, 329.)

L. A. Chuzhakin: "When the helmet with the earphones was removed the parachutist said something in a language we did not understand. We asked him who he was, but he gave no reply. Then we saw that he was a foreigner. This put us on the alert and then Cheremisin took away the long-barreled pistol in a leather case that was hanging from his belt. We asked him by gestures whether he was alone. He replied also by gestures that he was. Seeing that the parachutist was a foreigner, we decided to detain him." (Volume 4, pages 399 and 400.)

P. E. Asabin: "The parachutist fell while landing. To prevent him from being dragged by the parachute on the ground I held him and helped him to spill the air from the parachute, since I am acquainted with this having served in the airforce in the past. Meanwhile my acquaintances Anatoli Cheremisin, Leonid Chuzhakin and Vladimir Surin came running up and helped the parachutist to get on his feet. I helped him to remove the parachute, while Cheremisin, Chuzhakin and Surin removed the helmet with the earphones and the gloves. When the helmet with the earphones was removed, the parachutist said something in a language we could not understand. We asked him who he was and what happened but he gave no reply and only shook his head. We understood that he was a foreigner and decided to detain him." (Volume 4, pages 349, 350.)

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A. F. Cheremisin: "Supporting the detained parachutist by the arms, Asabin and I led him to the passenger car standing close by in which Chuzhakin and Surin had arrived. While putting him into the car, Asabin saw that the parachutist had a hunting knife and took it away." (Volume 4, page 387.)

The inspection of the remnants of the downed plane showed that the parts and the instrumentation of the plane were seriously damaged when the plane was hit in the air and when it collided with the earth. Parts of the plane were scattered over an area of about 20 square kilometers (about 9 sq. miles). (Volume 1, pages 47-59, 227.)

Defendant **Powers**, when shown the parts of the downed plane and asked what plane it was, replied:

"It is a 'Lockheed U-2' plane in a very damaged condition."

When asked if it was the plane in which he flew over the territory of the Soviet Union on May 1st, 1960, **Powers** replied:

"To my mind this is the same plane which I piloted on May 1st, 1960. In order to tell more exactly I must see the pilot's cockpit if it still exists . . ."

After that defendant **Powers** was shown the preserved part of the pilot's cabin. When asked "Are you familiar with this part of the plane?" he replied: "Yes, it is familiar to me. It is a canopy of the pilot's cockpit. I am sure this is the canopy of the cockpit of my plane . . ." (Volume 3, page 158-160.)

The experts who inspected the remnants of the downed plane concluded that it was a subsonic one-seater reconnaissance plane of the "U-2" type of the American firm "Lockheed" with a single turbojet engine. The plane has no national identification marks. It carried apparatuses for photographic and radio technical reconnaissance including a two-lens aerophoto camera with a focal length of 36 inches and also the apparatuses for detecting radio emissions in the three centimeter, decimeter and meter ranges of wavelength.

Installed in the plane also was a remote controlled blasting block containing 1.4 kilograms (over 3 lbs.) of explosives.

The instrumentation and parts of the plane carry trade marks of different American firms; in particular, the turbojet engine was made by the "Pratt-Whitney" firm, the starters and electric batteries were made by the firms "Hamilton Standard," "General Electric," etc. Besides the instruments, the instruments bears marks which show

that it is the property of the United States Defense Department. For instance the apparatuses for radio technical reconnaissance made by the "Hewlett-Packard Company" and Huggins Laboratory bear a special index showing that it belonged to the United States Defense Department.

The absence on the plane of national identification marks and the presence of a set of special apparatuses for photo and radio technical reconnaissance, as well as the blasting device for destroying the plane clearly reveal its intelligence mission. (Volume 1, pages 227-228, 248-253; volume 5, pages 84-91, 111-112, 115-158, 174-185.)

The expert technical examination has established that the plane carried a special aerial sound recorder connected with the radio-wave detector, with a roll of ferromagnetic tape for 8 hours of continuous operation. The sound recorder has the index MP 12,570 and serial number 769. It has a DC tape-feed actuating mechanism made by the American Globe Industries, Inc. in Dayton, Ohio.

The decoding of the impulse signals recorded on the ferromagnetic tape has shown these signals to belong to the ground radar stations of the radar network of the air defenses of the Soviet Union.

These recordings can serve to determine the range of wavelengths on which the reconnoitered radar stations operate, the frequency of impulse repetition, the time of coverage of the plane by a radar station and the area of its dislocation, the number and operating duty of radar stations in service. (Volume 5, pages 29-36.)

The intelligence gathering activity of the "Lockheed U-2" plane on its flight over the territory of the USSR has also been confirmed by the findings of the technical experts who examined the plane's photographic equipment.

The experts established the 73-B aerial camera number 732400, which was found on the "Lockheed U-2", to be a special reconnaissance camera designed for high-altitude photography of 160-200 kilometer-wide (100-125 mile-wide) strips of land.

The investigation has established that during his flight over the territory of the Soviet Union Powers photographed the territory and industrial, military and other important establishments. Much of the film, removed from the plane, has been found unexposed and was developed.

The examination of the aerial film has established that the locality photographed with long-focus cameras from the plane is Soviet ter-

ritory stretching from a point west of Tashkent to Sverdlovsk. Photographed on the film are a number of military airfields and civil airports as well as important industrial establishments of the South Urals.

The experts' findings and the rest of the evidence collected show that the air photographs obtained during the flight of the "Lockheed U-2" plane, piloted by Powers, represent a wide range of intelligence on industrial and military establishments within the photographed area applicable both for reconnaissance purposes and for compiling topographic maps and also for determining the coordinates of strategic military establishments. (Volume 5, pages 177-185.)

The intelligence-gathering activity of the "Lockheed U-2" plane has been confirmed also by Powers' testimony during the preliminary investigation and by his own written statement.

Questioned on the substance of the charge preferred against him, Powers pleaded guilty and testified as follows:

"I plead guilty to the fact that I have flown over the Soviet territory and over the points indicated on the chart, turned on and off the necessary controls of the special equipment mounted aboard my plane. This, I believe, was done with the aim of collecting intelligence information about the Soviet Union."

And further on:

"In accordance with the contract which was signed by me with the Central Intelligence Agency of the United States, I was a pilot of this special air detachment of the USA dealing with the collection of information about operational radio stations and radars on the territory of the Soviet Union and, as I suppose, about locations of rockets." (Volume 2, pages 176, 177.)

Powers' liability to the charge preferred against him is confirmed by factual and written evidence, experts' findings and the testimony of the witnesses.

On the basis of the foregoing:

Francis Gary Powers, born in 1929, citizen of the United States, born in Burdine, Kentucky, college graduate, pilot of the special "10-10" intelligence detachment of the Central Intelligence Agency of the United States, is hereby accused of having, after being

recruited by the Central Intelligence Agency of the United States in 1956, conducted intense espionage activity against the Soviet Union which is an expression of the aggressive policy pursued by the Government of the United States.

On May 1st, 1960, he, **Powers**, invaded the airspace of the USSR in a specially equipped intelligence plane, "Lockheed U-2", with the knowledge of the United States Government and under instructions from the American intelligence service which is implementing the afore-mentioned aggressive policy, with a view to gathering strategic intelligence on the location of missile bases, airfields, radar facilities and other important defense and industrial establishments of the USSR, that is, information which represents the state and military secret of the Soviet Union, and, having flown over 2,000 kilometers deep into the Soviet Union, photographed with special equipment a number of the above-mentioned installations and tape recorded the signals of radar stations, and collected other information of espionage character.

The crime, committed by the accused **Francis Gary Powers**, falls within the scope of Article 2 of the Law of the Soviet Union "On Criminal Responsibility For State Crimes."

The indictment was drawn up in the city of Moscow on July 7th, 1960.

(signed) **A. SHELEPIN**,
Chairman of the State Security Committee
Under the Council of Ministers of the USSR.

Approved:
Procurator-General of
the USSR
State Counsellor of Justice
R. RUDENKO
July 9, 1960
Published: August 10, 1960

COMPOSITION OF THE COURT:

PRESIDENT:

Lieutenant-General of Justice
VIKTOR V. BORISOGLEBSKY
*Chairman of the Military Division
of the Supreme Court of the USSR*

MEMBERS OF THE COURT:

Major-General of the Artillery
DMITRY Z. VOROBYEV
*People's Assessor of the Military
Division of the Supreme Court of the USSR*

Major-General of the Air Force
ALEXANDER I. ZAKHAROV
*People's Assessor of the Military Division
of the Supreme Court of the USSR*

SECRETARY OF THE COURT:

Major of Administrative Service
MIKHAIL V. AFANASYEV

STATE PROSECUTOR

State Counsellor of Justice
ROMAN A. RUDENKO
Procurator-General of the USSR

COUNSEL FOR THE DEFENSE

MIKHAIL I. GRINEV
Member of the Moscow City Collegium of Lawyers

FIRST DAY

AUGUST 17, 1960

FIRST SESSION, 10 A.M.

COMMANDANT OF THE COURT: The Court is coming. Please rise.

PRESIDING JUDGE VIKTOR V. BORISOGLEBSKY: Be seated. I declare the session of the Military Division of the Supreme Soviet of the USSR open. The case considering criminal charges against Francis Gary Powers, a citizen of the United States of America, committed for trial in accordance with Article 2 of the Law of the USSR "On Criminal Responsibility of State Crimes" is hereby declared open. I order the commandant to bring the Defendant Francis Gary Powers into the courtroom.

(Defendant Powers enters the courtroom).

PRESIDING JUDGE: In accordance with the Criminal Procedure Code of the Russian Soviet Federated Socialist Republic, this trial will be conducted in Russian. Because the Defendant does not know the Russian language, the court appoints as interpreters B. E. Belitsky and I. A. Adamov.

Do the participants of the proceedings have any challenges to the interpreters, Comrade Procurator-General?

PROCURATOR RUDENKO: No.

PRESIDING JUDGE: Comrade Defense Counsel?

DEFENSE COUNSEL GRINEV: No.

PRESIDING JUDGE: Defendant?

DEFENDANT POWERS: No. (Answers, sitting down)

PRESIDING JUDGE: Defendant, you are obliged to stand, when the Court addresses you. You have no objections against the interpreters Belitsky and Adamov?

DEFENDANT POWERS: No objections.

PRESIDING JUDGE: Interpreters Belitsky and Adamov, I must explain to you that you must interpret everything that is said exactly during the proceedings of this case. I must remind you of Article 95 of the Criminal Code of the RSFSR for the consequences of a false translation. To show that you understand

and bear responsibility for the consequences of intentionally-incorrect translation, I must ask you to sign this statement. Comrade Secretary, obtain their signatures.

(Secretary takes signatures from the interpreters)

SECRETARY OF THE COURT: We have their signatures.

**PRELIMINARY QUESTIONING OF DEFENDANT POWERS
BY PRESIDING JUDGE BORISOGLEBSKY**

PRESIDING JUDGE: What is your name? A. My name is Powers, Francis Gary.

Q. Of what country are you a citizen? A. The United States.

Q. When were you born? A. 1929.

Q. Where were you born? A. Burdine in the state of Kentucky.

Q. What nationality? A. United States.

Q. Are your parents alive, where do they reside and what is their occupation? A. Both my parents are alive. They reside in Pound, Va. My father is a shoe repairman. My mother is a housewife.

Q. From what institution have you graduated? A. I graduated from Milligan College near Johnson City.

Q. What is your family status? Are you married? A. Yes, I am married. No children.

Q. What is your profession? A. Pilot.

Q. What place of work? A. Detachment 10-10 at Adana, Turkey.

Q. Did you receive the text of the indictment in English? A. Yes.

Q. Do you recall the date? A. Last Wednesday. I don't know the date.¹

Q. Have you been told of the decision to bring you before this court? A. Yes.

PRESIDING JUDGE: Comrade Secretary, who was called in the capacity of witnesses for the Court and who has appeared?

SECRETARY OF THE COURT: For these court proceedings in the capacity of witnesses to the trial the following witnesses were summoned: Surin, Vladimir Pavlovich; Chuzhakin, Leonid Alekseyevich; Asabin, Pyotr Yefremovich and Cheremisin, Anatoli Fyodorovich.

PRESIDING JUDGE: I ask that the witnesses come forward to

the Court. (Witnesses come forward). Witnesses Surin, Chuzhakin, Asabin and Cheremisin, I must explain to you that you are obliged to give to the Court truthful answers in this case. I give you notice in advance that for untruthful testimony, you will be responsible before the law for violating Article 95 of the Criminal Code of the RSFSR. I ask you to sign statements to the effect that you will bear responsibility for submitting false testimony.

(Witnesses sign statement)

PRESIDING JUDGE: Witnesses, according to the law, you do not have the right to be in the Courtroom until the moment when you are to testify. Comrade Commandant, please conduct the witnesses to the witness-room.

(The witnesses leave the Courtroom)

Comrade Secretary, who was summoned to this case in the capacity of experts?

SECRETARY OF THE COURT: As experts for this case, the following were summoned: Colonel Alekseyev, Nikolai Alekseyevich; Colonel of the Engineers Tyufilin, Yuri Vsevelodovich; Doctor of Technical Sciences Professor Istomin, Gleb Alekseyevich; Colonel the Engineers Andreyev, Rostislav Aleksandrovich; Colonel of the Engineers Voroshilov, Konstantin Vasilyevich, Colonel of the Engineers Burmistrov-Zuyev, Nikolai Mikhailovich; Honored Scientist of the RSFSR, Doctor of Medical Sciences Professor Prozorovsky, Viktor Ilyich.

PRESIDING JUDGE: I ask that the experts come forward to the Court (Experts come forward). Comrade experts, The Court will explain to you your rights in this case. You are entitled to be present in the Courtroom during the proceedings, ask questions of the Defendant and of the witnesses within those matters necessary for you to deliver your conclusions, and to acquaint yourselves with the materials in this case. Comrade experts, do you understand your rights?

(The experts signify that they understood)

PRESIDING JUDGE: According to Article 170 of the Criminal Procedure Code of the RSFSR, I give you notice that you are obliged to submit conclusions which are strictly in accordance with the given facts and to give the Court your special knowledge which you possess. For submitting false conclusions, you will bear responsibility under Article 95 of the Criminal Code of the RSFSR.

¹The date was the 10th of August, 1960 the date of issue, one week before the trial date. (Publisher's note)

I ask you, Comrade Experts, to sign the statement to that effect.

(Secretary collects their signatures to the statement)

PRESIDING JUDGE: Comrade Experts, I ask you to take your places.

PRESIDING JUDGE: Defendant Powers, I wish to explain to you your rights in these proceedings under Article 277 of the Criminal Procedure Code of the Russian Soviet Federated Socialist Republic. You are entitled to testify in your own language, take part in the court proceedings, to put questions to the witnesses, to make statements concerning the testimony of witnesses, to put questions to experts for solution, to submit new evidence, to request new evidence and documents to be included in the case, to have a lawyer in court and to speak the last word at the end of the court proceedings. Have you understood the rights granted to you in court by law?

DEFENDANT POWERS: Yes.

PRESIDING JUDGE: I announce the composition of the Court in this case. This case is being considered by the Military Division of the Supreme Soviet of the USSR, as elected by the Supreme Soviet of the USSR on February 12, 1957. Presiding Judge is Viktor V. Borisoglebsky, Lieutenant-General of Justice and Chairman of the Military Division. People's Assessors are Dmitry Z. Vorobyev, Major-General of the Artillery and Alexander I. Zakharov, Major-General of the Air Force. The Secretary of the Court is Mikhail V. Afanasyev, Major of Administrative Service. The State Prosecutor is Roman A. Rudenko, State Counselor of Justice and Procurator-General of the USSR. Counsel for the defense is Mikhail I. Grinev, member of the Moscow City Collegium of Lawyers.

PRESIDING JUDGE: Do the participants in these proceedings challenge the composition of the court as a whole or any members of the court individually? Comrade Procurator-General?

PROCURATOR RUDENKO: No.

PRESIDING JUDGE: Does the Defense Counsel challenge the composition of the court as a whole or any members of the court individually?

DEFENSE COUNSEL GRINEV: No.

PRESIDING JUDGE: Defendant Powers, in accordance with Article 43 of the Criminal Procedure Code of the RSFSR you have the right to challenge the composition of the Court as a whole or any member of the Court because of their relationship to the participants of the

proceedings or any of the witnesses or experts in these proceedings. Do you have any challenges of the composition of this Court?

DEFENDANT POWERS: No, I have no challenges.

PRESIDING JUDGE: Of the Secretary?

DEFENDANT POWERS: No.

PRESIDING JUDGE: Defendant Powers, on the same basis, you have the right to challenge the selection of the Procurator.

DEFENDANT POWERS: I have no objections.

PRESIDING JUDGE: Defendant Powers, you also have the right to challenge the selection of experts.

DEFENDANT POWERS: I have no objections.

PRESIDING JUDGE: Defendant Powers, in accordance with the law, according to your request, your Defense Counsel Grinev was permitted access to the materials in this case the moments when they were presented to you for your information during the investigation. Do you reject your Defense Counsel Grinev?

DEFENDANT POWERS: No.

PRESIDING JUDGE: Does the Procurator-General have any statement or request to make in connection with the preliminary proceedings?

PROCURATOR RUDENKO: I will not have any statements to make.

PRESIDING JUDGE: Does the Defense Counsel have any statement?

COUNSEL GRINEV: I have no statement to make.

PRESIDING JUDGE: Do the experts have any statements to make? (Experts indicate they have not)

PRESIDING JUDGE: Does the Defendant have anything to say?

DEFENDANT POWERS: I have nothing to say at this time.

PRESIDING JUDGE: The preliminary proceedings are finished. The judicial inquiry will begin. In accordance with Article 279 of the Criminal Procedure Code of RSFSR, the Secretary of the Court will proceed to read the indictment in full.

SECRETARY OF THE COURT AFANASYEV: (Full indictment appears beginning on page 3)

PRESIDING JUDGE: Defendant Powers, you have heard the reading of the indictment against you. Do you understand the charge brought against you? Have you understood?

The Trial of the U-2

PRESIDING JUDGE: Accused Powers, do you plead guilty of the charge?

DEFENDANT POWERS: Yes, I plead guilty.

PRESIDING JUDGE: What proposals do the participants in these proceedings have with regards to the order of business? Comrade Procurator-General?

PROCURATOR RUDENKO: I propose that the order of business be the following: to begin with the examination of the Defendant and then call in the witnesses as they were listed in the list, then to the finishing speeches.

PRESIDING JUDGE: Comrade Defense Counsel?

DEFENSE COUNSEL GRINEV: I have no objections to the proposals of the Comrade Procurator-General. I am in agreement with him.

PRESIDING JUDGE: The Court sitting here, decides: the examination of the materials in this case will begin with the examination of the Defendant, then the questioning of the witnesses, then the hearing of the conclusions of the experts.

(Recess for twenty minutes)

COMMANDANT OF THE COURT: The Court is coming. Please rise.

PRESIDING JUDGE: Be seated. The session is resumed. Comrade Procurator, have you any questions to put to the Defendant Powers?

PROCURATOR RUDENKO: Yes, I have.

PRESIDING JUDGE: Defendant Powers, I ask you to answer the questions of the Procurator-General of the Soviet Union.

**QUESTIONING OF THE DEFENDANT
BY PROCURATOR-GENERAL RUDENKO**

- Q. Defendant Powers, when did you get the assignment to fly over the territory of the Soviet Union? A. On the morning of May 1.
- Q. From whom did you get that assignment? A. From the commanding officer of my detachment.
- Q. Who is the commanding officer of this detachment? A. Colonel Shelton.
- Q. Where is this detachment located? A. It is located in Adana, Turkey.
- Q. Where did you get the assignment to fly to the Soviet Union? A. In the town of Peshawar, Pakistan.

Examination of Defendant by Procurator

- Q. When did you arrive in the town of Peshawar? A. I don't remember the exact date. But it was a few days before the flight, I should say some four or five days.
- Q. That means in the latter part of April? A. Yes, in the latter part of April.
- Q. With whom did you arrive in Peshawar? A. It was a cargo aircraft with roughly 20 people and the commanding officer Shelton.
- Q. Was this a special trip in connection with preparation of the flight to the Soviet Union? A. Yes, the plane was assigned only to deliver our people to the airfield.
- Q. From what airfield did it take off? A. It took off from Adana, Turkey.
- Q. Did it fly non stop from Adana to Peshawar? A. No, there was one landing for refueling.
- Q. Where was that landing? A. I don't remember the exact name. It was somewhere along en route. The airfield was serviced by British personnel. I think it was Bahrein.
- Q. Is that a British base? A. I can only say that British personnel serviced the airplane.
- Q. I see. How did the U-2 plane get to the Peshawar airfield? A. It was brought to the airfield the night before, April 30.
- Q. By another pilot? A. Yes.
- Q. But it was brought for you to fly in it into the Soviet Union? A. At the time I didn't know I had to make the flight, but, apparently, the plane was brought there for that purpose.
- Q. Was this the plane that you, Defendant Powers, flew into the Soviet Union? A. Yes.
- Q. Were you the only one prepared for the flight or were there other pilots prepared too? A. There were two of us being prepared at the same time.
- Q. Why? A. I had no idea why. I have only my own opinions but cannot answer for them.
- Q. Were you specially trained for this flight? A. All pilots in my detachment were trained for the same flights as I was.
- Q. And you are included in this group, Defendant Powers? A. Yes.
- Q. When did you leave the base at Peshawar? A. I think it was about 6:30 local time in the morning.
- Q. What took place before that? A. For about two hours I passed through preparations for breathing oxygen for high-

altitude flights and at that time I received a briefing.

- Q. You left the base at Peshawar in the U-2 airplane? A. Yes.
- Q. What kind of a plane is the U-2? A. It is a special high-altitude aircraft prepared and designed to fly at very high altitudes.
- Q. Is it a reconnaissance military plane? A. Well I wouldn't call it exactly a military plane but it is an airplane of that type which is for reconnaissance as well as research work at high altitudes.
- Q. And for intelligence purposes? A. Well as I said I don't know whether it was military or not.
- Q. But it did belong to your detachment? A. Yes.
- Q. That is, the 10-10 detachment? A. Yes.
- Q. Is this a military detachment? A. Yes, it is commanded by military personnel, but the main part of the personnel were civilians.
- Q. Did you see any identification marks on the U-2 before the flight? A. Well, I could not inspect the plane because I was wearing a special flying suit and hence I do not know if it had any markings. It was hard for me to look at all the sides of the plane.
- Q. But did you see any identification marks? A. No, I did not observe the plane at close range.
- Q. But at any time, Defendant Powers, did you see any identification marks on the U-2? A. All the airplanes, based in Turkey, had identification marks.
- Q. But I ask you about this U-2? A. I personally did not see any identification marks on this plane but all the other planes which I have seen did have identification marks.
- Q. It is important for me to establish that on the plane on which the Defendant Powers flew did not have identification marks. Why were there not any identification marks? A. I cannot be positive that there were none.
- Q. But you just informed this court that you did not see any identification marks. A. I did not look for any.
- Q. You further stated that the absence of the identification marks was for the purpose of hiding the national identity of these planes. A. Would you repeat the question?
- Q. In the preliminary investigation you stated that the absence of identification marks was for the purpose of hiding the national identity of these planes. A. I do not remember.
- Q. You do not remember? We will leave it to the experts to prove that there were not any identification marks. Now I would like

to ask you what route did you follow flying to the Soviet border? A. I don't remember now the exact data of the flight, but I flew directly from the Peshawar airfield to the Soviet border.

- Q. Where and at what time did you cross the border of the USSR? A. I don't remember now the exact time but I would say approximately 30 minutes after take-off.
- Q. At what altitude were you supposed to fly? A. At the maximum altitude. Altitude varies with fuel load. As the fuel burns out the plane climbs higher.
- Q. To what altitude? A. The maximum altitude is 68,000 feet.
- Q. What did Colonel Shelton tell you regarding safe flying at such an altitude? A. I was told it was absolutely safe to fly over the Soviet Union at such an altitude and that anti-aircraft defense could not hit me.
- Q. What was your task in connection with the flight deep into the Soviet Union on May 1 of this year? A. The objective was to follow the route indicated on the chart and switch on and off designated equipment over the places indicated.
- Q. Were these places marked on your chart? A. They were marked just A or B or C or numbers 1-2-3.
- Q. When were these signs made? A. They were made on the chart before I received it.
- PROCURATOR RUDENKO:** I ask the Court to allow me to show Defendant Powers his flight chart, which was found among the wreckage of his plane. It is located in Volume 6, page 25. (At the direction of the Presiding Judge, the Secretary shows Defendant Powers the flight chart.)
- Q. Defendant Powers, first of all, I have a question: does this flight chart belong to you? A. Yes, this was the flight chart which I had on the 1st of May.
- Q. Were the main points of the route marked on this chart? A. All the points were marked on this chart.
- Q. Are you able to name the main points as marked on the chart? A. Yes, I am able to because the red penciled route indicated the exact route I was to follow.
- Q. Would you name these points? A. One of these is east of the Aral Sea. One is North-west of Chelyabinsk. One is before and one is after it. There are points near Arkhangelsk, near the

- Q. Is it the same one in the indictment? A. Yes, I am referring to the one mentioned in the indictment.
- Q. Was an airfield indicated on Finnish territory as a reserve airfield? A. I do not remember the name of it in Finland. Let me see. It is in the indictment.
- Q. How was your landing in Bodoe to be guaranteed on May 1? A. I don't exactly remember. I was to ask for instructions and land.
- Q. But representatives from the 10-10 detachment would have been there to meet you? A. I believe they would have been there.
- Q. In other words, they knew well in advance at Bodoe about the coming flight and landing? A. I was told I would be met by detachment personnel.
- Q. By what means were you to contact the Bodoe base in Norway before landing? A. I would have called on the radio and given my call signal, which was "Puppy 6-8" and asked for landing instructions.
- Q. I understand. Now we come to the question in connection with the flight over the territory of the Soviet Union. How long did you fly over the territory of the Soviet Union? A. I can only state approximately, because I do not know exactly, but it would seem, about 3 to 3½ hours.
- Q. How many kilometers did you penetrate into the territory of the Soviet Union? A. In kilometers I do not know. For 3½ hours at the approximate speed of 380 miles an hour, this would have been 1200 to 1300 miles. I have in mind the route on the map with all the turns.
- Q. At what height did the flight occur? A. The flight began approximately at 67,000 feet and as the fuel burnt out I rose to 68,000 feet.
- Q. You followed the assigned flight route? A. I followed the assigned route as close as I could.
- Q. How did you feel during the flight? A. Physically I was alright. But I was very nervous and scared.
- Q. What were you scared over? A. Just the idea of being over the Soviet Union. It is not something I'd like to do every day.
- Q. How was your oxygen supply? A. As far as I could tell, my oxygen supply was in order.
- Q. Everything was normal on the plane? A. Shortly before I was

- hit I had some trouble with the automatic pilot. But everything else was in order.
- Q. Did you carry out all your assignments exactly along the route of flight up till the moment your plane was hit? A. As nearly as I could do so. There was bad weather and I deviated from the course. Most of the route was covered by clouds and I could not find my orientation on the ground.
- Q. On your plane there was aerial reconnaissance photo-equipment. What instructions were you given? A. I was not given any specific instructions to operate the equipment. I was to turn switches on and off as indicated on the chart.
- Q. With what purpose did you switch on the equipment? A. I was instructed how to do this. It was indicated on the map that the equipment was to be turned on.
- Q. Defendant Powers, you probably knew the purpose for which you had to turn on and off the equipment? A. I could very well guess the purpose for which I turned on and off the equipment. If I would be very exact I would say no.
- Q. Surely Defendant Powers knew of this equipment. A. Not at first. But now that I have seen its results, I now know better what this equipment is for.
- Q. I think that Defendant Powers did not doubt that this was a reconnaissance plane from the moment he started his flight? A. No, I didn't doubt it.
- Q. On your plane there was found radio intelligence equipment, tape-recordings of various Soviet radar stations. Is that so? A. I have been told that there were tape recorders, but I don't know. However, much of the general equipment I do not know what it looked like except what I've seen here.
- Q. But you, Defendant Powers, were trained enough to know that such equipment is designated for special spying flights. A. I didn't know anything about the equipment before.
- Q. But you were sufficiently informed that this flight had espionage aims? A. I saw no other reason for such a flight. I ask that the lights of the projectors be taken away. They are blinding my eyes.
- PRESIDING JUDGE: I ask that the lights be taken away. Please continue.
- Q. Did your plane have a special radio

equipment to create interference from radar stations? A. In the tail sections of the plane were located equipment to distort radar signals aimed at the plane from radar stations on the ground and fighter aircraft.

- Q. By what means were you to operate this equipment during your flight? A. At certain places I was to turn it on.
- Q. Specifically on the points that were indicated on the map? A. Yes, on the points that were indicated on the map.
- Q. Did you also make visual observations from the plane? A. Yes.
- Q. Did you make corresponding marks on the map? A. If I understand you correctly, yes, I remember making three marks on the map.
- Q. What marks were they? A. First of all there was an airfield not indicated on the chart. I defined as exactly as possible the bearings of this airfield. The second I remember were huge cisterns — for oil storage. This was done through a thin layer of clouds. I was off the course and did not know the exact position. The third was a big outfit indicating a lot of buildings.
- Q. With what purpose did you make these marks? A. I was instructed to record everything that was not shown on my map. This is a "pilot's habit."
- Q. The habit which has espionage purposes? A. I would have done it over the territory of the United States, too.
- Q. But I asked you about the flight over the territory of the Soviet Union. Consequently it was an intrusion for espionage purposes? A. I suppose it was.
- Q. You do not deny that you invaded Soviet airspace in violation of the law? A. No I do not deny it.
- Q. Therefore this intrusion pursued intelligence espionage aims? A. I suppose so.
- Q. You stated here and during the preliminary investigation as well that you switched the equipment on and off at definite points? A. I did what the chart indicated.
- Q. Not knowing what the special apparatus was? A. I never saw the apparatus.
- Q. With the same ease you could have pulled a switch and released an atom bomb? A. It could have been done. But this is not the type of plane for carrying and dropping such bombs.
- Q. But this airplane flew at the height of 20,000 feet, and I

not be seen from the ground what apparatus was on board. And so, Defendant Powers, everything on this plane, its altitude, equipment, everything points to espionage aims.

- A. Yes.
- Q. At what altitude was your plane when it was struck by the rocket? A. It was at the maximum altitude, at about 68,000 feet.
- Q. Under what circumstances did this take place? A. I just finished making a turn. I was flying one minute straight after the turn when I saw, that is felt, a sort of hollow-sounding explosion. It seemed to be behind me. I could see an orange flash or an orange-coloured light behind me.
- Q. In what district did this take place? A. It was a few miles south of Sverdlovsk.
- Q. How did you leave the plane? A. I was unable to use the ejection seat because of forces originating in the falling plane. I remember that I was at a height of 30,000 feet and I realized I could not use the ejection seat. So I opened the canopy and loosened the straps. The centrifugal force pressed half of me against the instrument panel while the other half hung outside. I had forgotten to disconnect the oxygen hoses and they held me in. I had to struggle to get out. The parachute opened automatically immediately after I left the airplane. By that time I was at an altitude of 14,000 feet.
- Q. What were your instructions with respect to forced landing on the territory of the Soviet Union? What were you to do with the plane? A. I was instructed previously that if it was absolutely necessary to land on the territory of the Soviet Union, that I was to destroy the airplane with the help of buttons and levers which were located for that purpose and to escape capture. And with the help of the survival kit I was to head for the nearest border.
- Q. The plane was equipped with special means for its destruction? A. Yes, that's what I was told.
- Q. How was this done? With total destruction, leaving no traces? A. I don't know what would have happened had I pushed the buttons. I was simply instructed just to push them.
- Q. Defendant Powers, in your possession was discovered Italian, French, German and gold money. Who gave them to you and what part of my survival kit. I had

The Trial of the U-2

- gold money and Soviet rubles. The gold money was from different countries, from which ones, I don't know. It was to help me flee.
- Q. Why were you given Soviet currency to the amount of 7,500 rubles? A. For the same purpose as the gold coins, to bribe people if I could do it. But I don't know how I could do that without speaking the language of the country on whose territory a forced landing could take place.
- Q. But as soon as you, Defendant Powers, landed on Soviet territory, ordinary Soviet people, sensing that you were an enemy, detained and searched and disarmed you and delivered you to the authorities. A. That is so.
- Q. For what purpose were you given a noiseless 10-shot pistol? A. For hunting.
- Q. And for that they also gave you 205 cartridges? A. Yes.
- Q. As far as we know it is the custom to hunt with hunting rifles. A. It is difficult to carry hunting rifles on this plane.
- Q. Yes, especially on this plane, which has espionage purposes. A. I think that the pistol that was given to me had nothing to do with the purposes of the flight.
- Q. Who gave you the poison needle? A. It was given to me by Colonel Shelton during the briefing at Peshawar.
- Q. For what purpose? A. In case I was captured, tortured and couldn't stand the torture and would rather be dead.
- Q. This means your superiors directed you in this flight not to spare your life? A. It was more or less up to me to use that pin.
- Q. But they gave you that needle with poison? A. Yes.
- Q. They wanted you to blow up the plane, kill yourself and wipe out all trace? A. No, they did not tell me to kill myself.
- Q. But they gave you the needle to kill yourself? A. If I was tortured.
- Q. You were told torture would be used in the Soviet Union? A. I don't remember being told but I expected it.
- Q. Were you tortured? A. No.
- Q. How did the interrogation authorities treat you? A. I have been treated very nice.
- Q. I want to ask you about the following. On the 17th of May in the Gorki Central Park of Culture and Rest, were you shown the remains and wreckage of your plane and its equipment? A. Yes.
- Q. You were shown the remains of your plane? A. Yes, I was.
- Q. This is the same plane, "Lockheed U-2" which you flew? A. I

Examination of Defendant by Procurator

- believe this is the same plane.
- Q. But not in the same condition as it was when it was flown out of Peshawar? A. Yes there was a big difference.
- Q. I should think there was. You were able to see the salvaged remains of the cockpit of the pilot? A. I think they showed me everything that was salvaged from the plane.
- Q. I want to establish and confirm this fact. The parts of the plane are here and can be shown. But Defendant Powers here has confirmed they are his. Now I wish to put to the Defendant questions about the beginning of his espionage activities.
- Q. Defendant Powers, your flight on May 1st on the U-2 airplane was undertaken in accordance with provisions under a secret contract which you signed with the Central Intelligence Agency? A. Yes.
- Q. Tell us the circumstances under which you signed the contract with the Central Intelligence Agency. A. I was in the service at that time in the Air Force. My name appeared on the bulletin board to see someone after that. I met with these people and talked. They told me they had a very good job, and I had the qualifications for this. I was required to have some training and to be away from the family overseas for some 18 months. At that time I did not know what the pay would be. But they said there would be an increase over what I received as first lieutenant. I was told to go home and talk it over with my wife. The next interview was in a day or two. I liked the idea of flying service with a big salary. And I told them I would be willing to be away from home and then they told me more about what would be required. It was a fairly long time ago.
- Q. When was it? A. In 1956. Anyway, I was to meet certain physical requirements and pass a medical examination. I met these tests. I was given a special flying suit for high altitude flights. This was tested in an altitude chamber. And I was told that I would be paid \$2,500 a month. Part of it would be held back and paid on successful completion of the contract. One thousand was held back each month. I was told that my main duties would be to fly along the Soviet border and collect any radar or radio information. I was also told there would possibly be other duties.
- Q. Did you sign the contract? A. Yes.
- Q. Who signed on behalf of the Central Intelligence Agency?

- A. I don't exactly remember but it was a Mr. Collins. I think he signed in my presence but there were others who signed it too.
- Q. What were your liability for disclosing any details of this contract as well as the character of your work? A. According to the law, this was classified information.
- Q. What was the penalty? Can you remember just now? A. I don't exactly remember how the wording went, but it was said that it was 10 years imprisonment and \$10,000 fine or both.
- Q. You signed this contract after you left the Air Force? A. I don't remember the exact date when I left the Air Force and I don't remember the date when I signed the contract. They were close together.
- Q. You named a sum that was to be given you — \$2500 a month. Is that right? A. Yes.
- Q. Was the pay that you were to receive a large sum? A. It was more than what I had been making. It was approximately the equivalent of a pay of the captain of a commercial airliner.
- Q. Was there anything in the contract about flying along Soviet borders? A. No. That was explained to me before I signed the contract.
- Q. After you signed the contract, you must have realized that you were to soon fly over the territory of the Soviet Union. A. At that time I didn't know that.
- Q. How is it that you didn't know that? A. Nothing was said concretely about that in the contract. I was to carry out orders and they told me nothing about that.
- Q. In the contract nothing was said, but they told you verbally that you were to fly along the borders of the Soviet Union? A. Yes.
- Q. From what time and where did you go into training after you signed the contract with the Central Intelligence Agency? A. Training began within a few days, although I can't remember how many days, after the signing of the contract. Training began after the end of May and went to the first part of August.
- Q. Why did you undergo training under an assumed name? A. We were told that in case of an accident that under no circumstances the people not part of the unit were to associate the accident, with let's say, Powers.
- Q. Under what name were you training? A. The first name was the same, the last name was Palmer.

- Q. After your training into what work were you sent? A. Into the Detachment 10-10 in Adana.
- Q. When was this? A. I think it was about August 20, 1956.
- Q. What was the purpose and aims of the detachment in which the Defendant was assigned? A. In general to gather information along the borders of the Soviet Union. We likewise conducted weather research reconnaissance to determine radio-activity.
- Q. Who commanded this detachment at the time that the Defendant Powers arrived in 1956? A. Colonel Perry.
- Q. Who was immediately in charge of the 10-10 detachment? A. The immediate supervision over the 10-10 detachment was under a military commander but to whom he was responsible, I do not know.
- Q. But it was a military commander? A. The head of the detachment was a military man.
- Q. I understand. A. But the bulk of the detachment were civilians.
- Q. But they obeyed the military supervisors? A. Yes, Colonel Shelton was the commander of this detachment.
- Q. How long were you in the 10-10 detachment? A. From the time of my arrival until May 1.
- Q. To whom did the military base at Adana belong where the detachment 10-10 was located? A. I believe that it was located on Turkish territory and belonged to Turkey. And the base was peopled by Turkish as well as American personnel.
- Q. The base belonged to Turkey but was commanded by Americans? A. Well, there was also a Turkish as well as an American commander. Who was senior, I don't know.
- Q. Did everybody have access to the detachment 10-10? A. The base was a classified area and only the personnel who worked on it had access to it.
- Q. American personnel? A. Yes, American personnel worked there.
- Q. All those Americans were allowed access there? A. All those who had business in the other detachments, but to the 10-10 detachment not all were allowed.
- Q. And so this Turkish base was under the full American command, and so not only Turkish but many Americans were denied access. A. Access to the 10-10 detachment was denied, but to the other detachments it was allowed.

- Q. I'm asking about the other detachments. A. I do not know about the other detachments but I do know about the 10-10 detachment.
- Q. So the detachment 10-10 was a special detachment? A. Yes, you can call it a special detachment.
- Q. Namely an intelligence detachment? A. I think so, yes.
- Q. I want to ask you, who from the high command visited the 10-10 detachment? A. There were a number of people carrying out inspection tours. During that time, they visited the 10-10 detachment.
- Q. Which of those can the Defendant Powers name? A. I had heard that in the first part of April, General White visited the base, because I saw his plane. I heard from friends that he visited the base but I can't say for sure.
- Q. Who else from the high command visited the base? A. There were others but I can't remember. There was General Everest.
- Q. Who is General Everest? A. At that time he was the commander-in-chief of the US Air Force in Europe.
- Q. For what purposes did he visit this detachment? A. I don't know exactly but I was told it was an inspection tour.
- Q. So that means that this military base was the center of attention of the high command? A. It meant that the detachment, located on the base was visited by the command.
- Q. The detachment 10-10, as you said, was a special detachment? A. It was a very special one, in view of the kind of work it was doing.
- Q. Yes, in view of the work it was doing. A. But this does not mean that it was shown to visitors. The visitors, on the contrary, were not shown this detachment.
- Q. But such visitors as White and Everest are not ordinary visitors. A. Yes, you're right, they're big wheels.
- Q. Did any other kind of people visit the detachment 10-10? A. There were many visitors, I don't remember who they were. There were generals and congressmen. I think that the congressmen didn't visit the detachment, but they saw the base.
- Q. And who else visited the base? A. Also, it seems, Cardinal Spellman visited us.
- Q. So Cardinal Spellman interested himself in military bases? A. I would say that he was interested in military personnel, not bases.
- Q. Would Cardinal Spellman give his blessings to

- in spy operations? A. He was a well known church figure. I think he wouldn't think too much of what a person does as what he is.
- Q. And did he bless these flights? A. I do not know and never saw him do that. Mostly we conducted prayers with him.
- PROCURATOR RUDENKO: Now I request the Court to allow me to present Powers' identification card. It is in volume 6, page 11.
- PRESIDING JUDGE: Comrade Secretary, show the defendant the identification card.
- (The Secretary shows Defendant Powers the card.)
- Q. Does this card belong to you? A. Yes, it was issued to me.
- Q. Please explain the emblem on the document and to what department the stamp on the card belongs. A. On the stamp it says, "Department of Defense. United States of America."
- Q. Are both stamp and emblem of the U.S. Defense Department? A. I would say the emblem and the stamp are the same.
- Q. That is, of the Defense Department? A. Yes, it is written there: "Department of Defense. United States of America."
- Q. Why should the Defense Department issue you an identification card when you have nothing to do with the military department? A. The Defense Department consists of the Department of the Army, the Department of the Air Force, the Department of the Navy and I do not know what other departments.
- Q. But they are all military departments? A. Yes, I would say Defense is military.
- Q. Now I would ask the Court to allow me to present Defendant Powers a document issued in the name of NASA (volume 6, page 14).
- PRESIDING JUDGE: Comrade Secretary, present the document to the defendant.
- DEFENDANT POWERS: Here it is before me.
- Q. This certificate belongs to you? A. Yes.
- Q. And you had a relationship with this organization? A. I don't know.
- Q. You do not know whether you had any relationship? A. We had a connection with NASA on our weather research work which we did.
- Q. But didn't you have with this organization a sort of employee-relationship, Defendant Powers? A. I never met the personnel

- those borders, I flew a normally established route.
- Q. You made flights over the Black Sea. Where specifically? A. Yes, on the southern shore of the Black Sea.
- Q. Did you make any flights over the Caspian Sea? A. No, over the Caspian Sea I did not fly. I flew south of it but not over it.
- Q. But you flew south of the Caspian Sea? A. Yes.
- Q. Were planes for special flights along the Soviet border equipped with special reconnaissance equipment? A. Yes, there was special equipment, but I did not know its character.
- Q. What particular objectives was your detachment interested in and what tasks did the command set before you? A. In 1956 we were more interested in the Black Sea area and later our interest centered more to the east. I was told on one flight that I might see a rocket launching. I assume they were interested in the launching of rockets.
- Q. What did you photograph on these flights? A. I don't know, I just turned on the switches.
- Q. You turned switches on and off just like you did on May 1? A. Just in the same way.
- Q. But you are sure that the switching of levers on and off provided the necessary results? A. Yes.
- Q. Did you record any radio ceiling or radar locations? A. I personally did not but I assume that the equipment did it.
- Q. Did this not make clear that these were intelligence flights? A. I would think they were intelligence flights.
- Q. From what airfield did the U-2 planes fly along the borders of the Soviet Union? A. The airfield from which I flew on these flights was the airfield of Incirlik, near Adana.
- Q. Did other pilots of the 10-10 detachment take part in similar flights? A. I should say that the distribution of work between pilots was fairly even.
- Q. And could you say how many pilots there were in the 10-10 detachment? A. There were seven civilian pilots.
- Q. Civilians like you? A. Yes.
- Q. On these border flights, which airfields could you use, in case of accident? A. I could use any airfield in Turkey, Iran and Pakistan.
- Q. Which airfields in particular? A. I was told about various airfields and given data on their airstrips and runways. I was told about

- airfields in Teheran, Meshed in Iran, Peshawar in Pakistan.
- Q. Peshawar in Pakistan, Peshed and Teheran in Iran? A. But those airfields I could use only in case of accident.
- Q. But you used Peshawar not only in case of accident? A. That was under entirely different circumstances.
- Q. It's all the same. That airfield was used for flights over the territory of the Soviet Union? A. Yes.
- Q. With what bases did you keep radio contact during these flights? A. We never had radio contact with our bases during the flights with the exception of short times after going up and shortly before landing.
- Q. With what bases did you have radio contact? A. Incirlik but on the 1st of May with Peshawar.
- Q. You knew you were, prior to making the May 1st flight, to have completed it at Bodoe? A. Yes.
- Q. Were you ever at Bodoe any other time? A. Yes, I was there once before.
- Q. When was that? A. In August of 1958.
- Q. With what purpose? A. I ferried a plane from Adana to Bodoe.
- Q. What kind of a plane? A. A U-2.
- Q. The same plane with which you made the May 1st flight? A. I do not know whether it was the same plane.
- Q. But the same type? A. The same type.
- Q. So thus you were familiar with the airfield? A. Yes, I made a landing there once.
- Q. That was the only occasion? A. Yes.
- Q. Were you met by members of your detachment when you completed your mission? A. Yes, I was met by members of the 10-10 detachment.
- Q. In Bodoe? A. In Bodoe.
- Q. You then flew out of the airfield of Bodoe? A. I flew out of that airfield in an ordinary transport plane.
- Q. And other pilots flew out of that airfield? A. Yes, while I was there, two flights were made from that airfield.
- Q. On U-2 planes? A. Yes.
- Q. Did you have occasion to visit the base at Peshawar prior to the flight on May 1? A. I have been there one time before.
- Q. When was that? A. I think it was in June 1959.
- Q. What brought you there on that occasion? A. I flew a plane there.

Q. A U-2? A. Yes.
 Q. From what base? A. From Incirlik.
 Q. In other words, May 1 was not the first time you were in Peshawar? A. It was the second time.
 Q. Have you ever visited an air base near Wiesbaden, Western Germany? A. Yes, I was there.
 Q. How is this base named? A. That's the way it was named—Wiesbaden base.
 Q. Why did you visit this base? A. I ferried a training plane, a T33.
 Q. How long did you spend at this base? A. I was there many times. Right now, I don't remember how much time I took to test this plane. I also was in Wiesbaden on vacation.
 Q. I'm asking you specifically in connection with your work on the U-2 plane. Did you ferry a U-2 plane from the base in Western Germany to an Air Force base in the USA, near New York? A. No.
 Q. Then where did you ferry that plane? A. I ferried the airplane from another Western German base, Hibbelstadt to New York.
 Q. Hibbelstadt—that is in Western Germany? What kind of a plane? A. A U-2.
 Q. To what base? A. New York.
PROCURATOR RUDENKO: I have no further questions at this time.
PRESIDING JUDGE: Defendant Powers, sit down. Comrade Defense Counsel, do you have any questions to your client?
DEFENSE COUNSEL GRINEV: Yes.
PRESIDING JUDGE: Defendant Powers, I ask you to answer to your Defense Counsel's questions.

QUESTIONING OF DEFENDANT POWERS BY DEFENSE COUNSEL GRINEV

Q. Who are your parents and what are their occupations? A. I have a father and mother. My father is a shoemaker. My mother helped him earlier but now her health does not permit her to work and she is a housewife.
 Q. Did your father have any hired help in his shop? A. No.
 Q. And where did your father work before entering the shoemaking business? A. He worked for many years in the coal mines, but an

accident crippled his health and nearly killed him.
 Q. What about the composition of your father's family? A. I had 5 sisters and no brothers. My grandfather lives with his family.
 Q. Could it be said that you come from a working family? A. Yes.
 Q. Are your sisters married? A. Yes. All my sisters are married.
 Q. Who are the husbands of your sisters? A. The oldest sister married a shoemaker and he also drives a school bus, the second one married an electrical fitter. The third married an ex-teacher and who is now a postman. The fourth sister married a newspaper agent in Washington. I do not know too much about the character of his work. The youngest sister just married two months ago and I do not know what her husband does.
 Q. Did your father possess any real estate? A. Yes, my father owns a farm.
 Q. Under what circumstances did he receive this farm? A. He inherited his part from his father and bought the other part from the other members of his family.
 Q. Does this farm produce anything or does it produce just for the household of your family? A. It just produces enough for the family, milk and vegetables and so forth. My father does not sell anything.
DEFENSE COUNSEL GRINEV: Comrade Judges, the defendant's parents have made available to me various photos showing how the defendant grew up, and also the house in which he lived. I ask the court to study these documents and attach them to the dossier.
 (Secretary hands the photos to the court.)
PRESIDING JUDGE: Are there any objections on part of the Procurator-General?
PROCURATOR RUDENKO: I have none.
PRESIDING JUDGE: These photos will be attached to the dossier. Proceed, Defense Counsel.
DEFENSE COUNSEL GRINEV: Tell the court about your health.
 A. Well, as a child I suffered from the usual diseases affecting children, I think I had diphtheria, but I am now physically fit even though I am under an emotional strain.
 Q. Will you explain then the mark on your cheek? A. This is a birth mark.
 Q. What education did you receive? A. I graduated from Milligan

- Q. A U-2? A. Yes.
 Q. From what base? A. From Incirlik.
 Q. In other words, May 1 was not the first time you were in Peshawar? A. It was the second time.
 Q. Have you ever visited an air base near Wiesbaden, Western Germany? A. Yes, I was there.
 Q. How is this base named? A. That's the way it was named—Wiesbaden base.
 Q. Why did you visit this base? A. I ferried a training plane, a T33.
 Q. How long did you spend at this base? A. I was there many times. Right now, I don't remember how much time I took to test this plane. I also was in Wiesbaden on vacation.
 Q. I'm asking you specifically in connection with your work on the U-2 plane. Did you ferry a U-2 plane from the base in Western Germany to an Air Force base in the USA, near New York? A. No.
 Q. Then where did you ferry that plane? A. I ferried the airplane from another Western German base, Hibbelstadt to New York.
 Q. Hibbelstadt—that is in Western Germany? What kind of a plane? A. A U-2.
 Q. To what base? A. New York.

PROCURATOR RUDENKO: I have no further questions at this time.

PRESIDING JUDGE: Defendant Powers, sit down. Comrade Defense Counsel, do you have any questions to your client?

DEFENSE COUNSEL GRINEV: Yes:

PRESIDING JUDGE: Defendant Powers, I ask you to answer to your Defense Counsel's questions.

QUESTIONING OF DEFENDANT POWERS BY DEFENSE COUNSEL GRINEV

- Q. Who are your parents and what are their occupations? A. I have a father and mother. My father is a shoemaker. My mother helped him earlier but now her health does not permit her to work and she is a housewife.
 Q. Did your father have any hired help in his shop? A. No.
 Q. And where did your father work before entering the shoemaking business? A. He worked for many years in the coal mines, but an

- accident crippled his health and nearly killed him.
 Q. What about the composition of your father's family? A. I had 5 sisters and no brothers. My grandfather lives with his family.
 Q. Could it be said that you come from a working family? A. Yes.
 Q. Are your sisters married? A. Yes. All my sisters are married.
 Q. Who are the husbands of your sisters? A. The oldest sister married a shoemaker and he also drives a school bus, the second one married an electrical fitter. The third married an ex-teacher and who is now a postman. The fourth sister married a newspaper agent in Washington. I do not know too much about the character of his work. The youngest sister just married two months ago and I do not know what her husband does.
 Q. Did your father possess any real estate? A. Yes, my father owns a farm.
 Q. Under what circumstances did he receive this farm? A. He inherited his part from his father and bought the other part from the other members of his family.
 Q. Does this farm produce anything or does it produce just for the household of your family? A. It just produces enough for the family, milk and vegetables and so forth. My father does not sell anything.

DEFENSE COUNSEL GRINEV: Comrade Judges, the defendant's parents have made available to me various photos showing how the defendant grew up, and also the house in which he lived. I ask the court to study these documents and attach them to the dossier. (Secretary hands the photos to the court.)

PRESIDING JUDGE: Are there any objections on part of the Procurator-General?

PROCURATOR RUDENKO: I have none.

PRESIDING JUDGE: These photos will be attached to the dossier. Proceed, Defense Counsel.

DEFENSE COUNSEL GRINEV: Tell the court about your health. A. Well, as a child I suffered from the usual diseases affecting children, I think I had diphtheria, but I am now physically fit even though I am under an emotional strain.

Q. Will you explain then the mark on your cheek? A. This is a birth mark.

Q. What education did you receive? A. I graduated from Milligan

- Q. In what specialty? A. My main subjects were biology and chemistry.
- Q. Did you work while you studied? A. Yes, during the time I studied I washed dishes and thus earned some money for studies. During the summer vacations I did odd jobs, wherever I found work.
- Q. What wages did you earn for this? A. My studies were expensive and I wanted to reduce the family's expenditures for my education.
- Q. Did you engage in politics or belong to any political party? A. No, I did not engage in politics and was not a member of any political party. I had never voted in the elections.
- Q. Were you ever in the Soviet Union before the 1st of May, 1960 or were you interested at all in the Soviet Union? A. No, before the 1st of May, I never was in the Soviet Union, and political questions did not interest me. I was mainly interested in scientific achievements of the Soviet Union. I think that all I knew about the Soviet Union I got out of newspapers and magazines.
- Q. From your explanations, it was evident that your father wanted you to become a doctor. Why didn't you heed his wishes? Why did you go into the Air Force? A. My father wanted me to be a doctor but I felt that I wasn't suited for it. Besides that, this demanded, that I study much harder and it would have cost much more. Having graduated Milligan College, I was of age rather close to the draft. I didn't know when I would be called but it was evident that it would be a few months after my graduation. It's hard to get a good job when you're draft-bait because nobody wants you and nobody wants to hire you. I had some temporary work during the summer as a life guard. When that job was finished, I decided not to wait to be called up and so decided to volunteer in the Air Force, inasmuch as aviation always interested me.
- Q. Tell us about the circumstances of your going to work for the Central Intelligence Agency. Did this take place on your initiative? A. No, I was approached. After my term of enlistment was up in the Air Force, I had wanted to get a job on a commercial airline or some job like that, but I was too old when my term was up and not acceptable. So when I was approached and offered a job in the CIA pa

- salary as a first pilot or captain of an airliner, I felt very lucky to get such a job.
- Q. After you signed the contract with the Central Intelligence Agency, did you take on yourself any further obligations? A. No, my only obligation was under the contract as a pilot. To fill in my time between flights, I took a job as a flying safety officer to promote safety in flying.
- Q. What did your work at the Central Intelligence Agency bring you materially? A. It enabled me to pay my debts, live in comparative prosperity and save money for the future in the hope of buying a house and setting up my own business to be independent of my parents.
- Q. Under what conditions could you get extra pay under your contract? A. It was established how much I would be getting a month. The contract was such that I would not get all the money every month. There was a sum being put aside each month to be received after successful completion of the contract.
- Q. What pay did you receive in the detachment 10-10? A. A Pilot's pay.
- Q. Did you fulfill any kind of supervisory or administrative function? A. No, I was only a pilot.
- Q. Was the flight of the May 1 your only flight over Soviet territory? A. Yes it was the only flight.
- Q. Were you consulted about the program of spy flights over the Soviet Union? A. No, I knew of no such program.
- Q. Were you acquainted with the special apparatus on the plane? A. No, I have never seen any of the special equipment loaded or unloaded. It was never done in my presence. My knowledge of the special equipment was to follow instructions on my map.
- Q. Did you know any of the results of your reconnaissance flights? A. I was never informed of the results of my missions and did not know whether the equipment worked properly except as indicated by signal lights in the cockpit.
- Q. I seem to recall that you stated in one of the depositions in the preliminary investigation that you hesitated over prolonging your contract with the Central Intelligence Agency when the contract lapsed. What were the reasons and why did you hesitate? A. Well, the last time I was called on to renew the contract with CIA, I had misgivings. It is difficult to explain the

reasons for my hesitating, but one of the reasons was that the job was nerve-wracking and high-altitude flights in a special uniform were physically exhausting. In addition to that I had a feeling—I don't know what it was—I just didn't like what I was doing. If I had had time to look for another job, I would have done so, but I had no time.

- Q. Were you sorry you renewed your contract? A. Well, the reasons are hard to explain.
- Q. Why are you sorry now? A. Well, the situation I am in now is not too good. I haven't heard much about the news of the world since I have been here, and I understand that as a direct result of my flight, the summit conference did not take place and President Eisenhower's visit was called off. There was, I suppose, a great increase in tension in the world, and I am sincerely sorry I had anything to do with this.
- Q. Can you tell us where the difficulty of your job lay? A. The length of the flights and the weight of the uniform that I had to carry. For example I will tell you about an average flight. For two hours before the flight, one had to put on a helmet which sat rather tightly on your neck; the pilot had to breathe oxygen for a period of two hours so as to maintain the oxygen ratio in his blood. After that they gave you the special uniform—you had to have help of one or two men—then they took the pilot to the plane. Personnel had to help him strap up in his seat. All this took place two hours before flight time and the flight itself was about eight to nine hours long. The uniform all this time was rather tight fitting around my body and around the neck was a hermetically sealed cork ring which leaves a mark on your neck. And so when inside the cabin you had to move around, the tight-fitting uniform would leave you cut and bruised. The uniform had rubberized strips and under pressure, you would sweat and these would stick to your body. For two hours before flight and eight to nine hours during the flight a pilot cannot eat or drink. and after a pilot has landed, his body is dehydrated. Usually towards the end of a flight, the pilot was so worn out that he had to be helped in his landing by special radio signals. Indeed a pilot in such worn-out condition might in landing make a mistake. There are certain rules set up by the medical personnel. According to these rules a pilot has

days. This pertains to any kind of a plane, even for training planes. The doctors consider that a pilot is too mentally and physically incapable of doing a second flight unless there is a two-day lapse from the previous flight. Besides the flight would bring with it many side effects. When you breathe 100% oxygen, and then go up and down in altitude, the inner ear fills up with oxygen. During a pilot's sleep, the tissue absorbs oxygen and there is a low pressure zone in your head which is very uncomfortable. The result is you have a lot of headaches and ear aches. This is about it.

- Q. Did Colonel Shelton ask your consent to the May 1st flight or was it a categoric order? A. It was an assignment. I was not asked whether I wanted to fulfill it or not. There were two of us preparing for the flight and I did not know which one of us would go.
- Q. Could you refuse to go? A. No, I could not refuse. It was an order. I would have been considered a coward by all of my associates and it would also have meant an unsuccessful completion of my contract.
- Q. What would you have to do in case of forced landing? A. I was told that such a case was not very likely. I believed in the airplane. I was also told that the flight would not be interrupted. I repeat, I was told this and I believed that except for technical failure, there would be no accident, whereby the flight would be cut short. I was told that in case of fuel or oxygen failure, I was to destroy the plane, and if possible with the aid of my survival equipment which was given to me, abandon the airplane.
- Q. How did you feel during this flight? A. Physically I felt good, my health was good, but the very idea of this flight did not appeal to me. I was very nervous. It's very hard to explain, why I was nervous, why under tension and why I was afraid. I had a feeling of fear.
- Q. Did you resist any detention and did you contemplate resisting? A. No I did not.
- Q. How were you treated during your detention? and thereafter? A. Much better than I expected. First of all I did not resist arrest and had no intention of resisting. At first I don't suppose they recognized me as a foreigner. When I landed, they helped me take off my

helmet. When it became clear to them that they were dealing with a foreigner, naturally they decided to detain me. I asked, on the way to the authorities, for a drink of water. They stopped the car specially, offered me cigarettes and brought me a glass of water. I think that I understood one word, "America" or "American". And I think they knew I understood. When I got to, I don't know what you call it, the office where the authorities were, I complained of a headache. I hurt my head somewhere in the accident. I also had a scratch on my left leg. The doctor was called for me and he treated me. From there I was taken to Sverdlovsk and there I had an interpreter and from there I came here. All the time I was treated very nice.

- Q. Have your statements till now been truthful? A. Yes, it is impossible to deny what I have done. Once in a while I will change my mind in some small details on this or that question.
- Q. What is your present attitude towards work in the CIA and do you now understand the danger the flight entailed? A. I understand a lot more now than I did before. At first I hesitated as to whether I should renew the contract. I did not want to sign. If I had a job, I would have refused to sign, now that I know some of the consequences of my flight, though I don't know all of them by any means. But as I indicated a few moments ago, I am profoundly sorry I had any part in it.

DEFENSE COUNSEL: I have no more questions for today.

PRESIDING JUDGE: The court will adjourn until 10 a.m. tomorrow, the 18th of August.

(The session adjourned at 5:10 p.m.)

SECOND DAY

AUGUST 18, 1960

FIRST SESSION, 10 A.M.

COMMANDANT OF THE COURT: Please rise, the Court is coming.
PRESIDING JUDGE: Please sit down. The Court session of the Military Division of the Supreme Soviet of the USSR has resumed. Comrade Defense Counsel, have you any further questions to your Defendant?

DEFENSE COUNSEL GRINEV: Yes.

PRESIDING JUDGE: Defendant Powers, reply to the questions of your Counsel.

CONTINUATION OF QUESTIONING OF DEFENDANT POWERS BY DEFENSE COUNSEL GRINEV

- Q. Why didn't you keep to your job of a life guard and not try to find other work? A. I took the job of a life guard after I graduated college. It was only a temporary job just for the summer time until it gets cold. It was practically impossible to find a permanent job where I was living. No one would hire one who was shortly to be drafted into the service.
- Q. When signing your contract with the Central Intelligence Agency, were you aware that you would have to make flights over the territory of the Soviet Union? A. Not at the time I signed the contract.
- Q. When did you first hear of this? A. I would say six to seven months after the contract was signed. Then it was said that this was to be part of my duties. But in the meantime the Soviet radar system proved to be much better than was considered before and I was told that we would probably limit ourselves to flights only along the Soviet borders.
- Q. In the event of your refusal to make the flight on May 1, would you have received that part of the money due to you under the contract? A. The way the contract was worded, it would have been strictly up to the people who hired me. They could have

rocket? A. It was at that altitude that I was struck down by something.

Q. You say you were struck down by something? A. Why, I had no idea what it was. I didn't see it.

Q. But it was at that altitude? A. Yes.

PROCURATOR RUDENKO: I ask the court to make public at this time the report of the commanding officer of the Soviet Army unit which shot down the American Lockheed U-2 plane on which the Defendant Powers was flying on May 1, 1960. This report is located in volume 7, page 5—in the English Text on page 7.

PRESIDING JUDGE: Does the Comrade Defense Counsel have any objection to the report of the Procurator-General?

DEFENSE COUNSEL GRINEV: I have none.

PRESIDING JUDGE: The Court, having consulted on the report, has decided to grant the request of the Procurator-General of the Soviet Union.

(Secretary of the Court reads the report in Court)

"To the Commander of the military unit:

"REPORT

"I hereby report that your order to destroy the plane that violated the state border of the U.S.S.R. and intruded into our country on May 1, 1960, was carried out at 8:53 Moscow time.

"As the plane entered the firing range at an altitude of over 20,000 metres one rocket was fired and its explosion destroyed the target. The hitting of the target was observed by instruments, and after a short interval posts of visual observation recorded falling plane fragments and parachuting down of the pilot who bailed out of the crashed plane. The results of the shot have been reported by me to the superior command and measures have been taken to apprehend the flyer who came down on a parachute.

"May 1, 1960.

"Major Voronov."

Q. When flying over Soviet territory were you in radio communication with the air bases in Incirlik and Peshawar? A. No.

Q. Why did you not have radio communications with these bases?

A. The radio I had for communications was an ultra-high frequency one. It is only for line-of-sight transmission and flying at such a high altitude as I was, I could have communicated





1. UNDER THE GLARE OF TV LIGHTS, Defendant Powers mops his brow while pondering the verdict. He had attended the three-day trial.



2. AFTER THE VERDICT, Powers meets his family for the first time. (Left to right), Wife Barbara, Powers, Father Oliver, Mother Ida, Sister Jessica.



3. TENSE MOMENTS for the Powers family listening to testimony translated simultaneously in five languages.



9. PRESIDING JUSTICE
Lieutenant-General of Justice
Viktor V. Borisoglebsky



10. PEOPLE'S ASSESSOR
Major-General of the Artillery
Dmitry Z. Vorobyev



11. PEOPLE'S ASSESSOR
Major-General of the Air Force
Alexander I. Zakharov




12. PROCURATOR-GENERAL
State Counsellor of Justice
Roman A. Rudenko



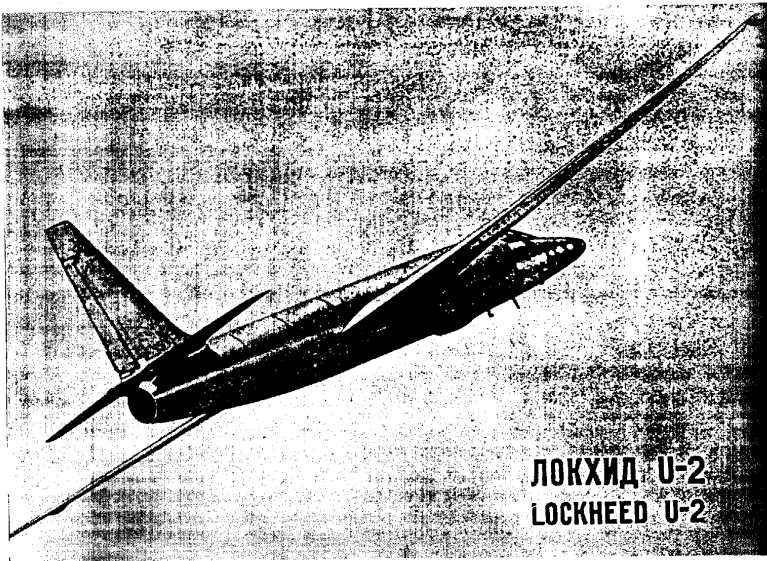
13. INTERNATIONALLY KNOWN JURISTS
and scholars attend the trial as guests.

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20. POWERS ID CARD shows status as uniformed services member.

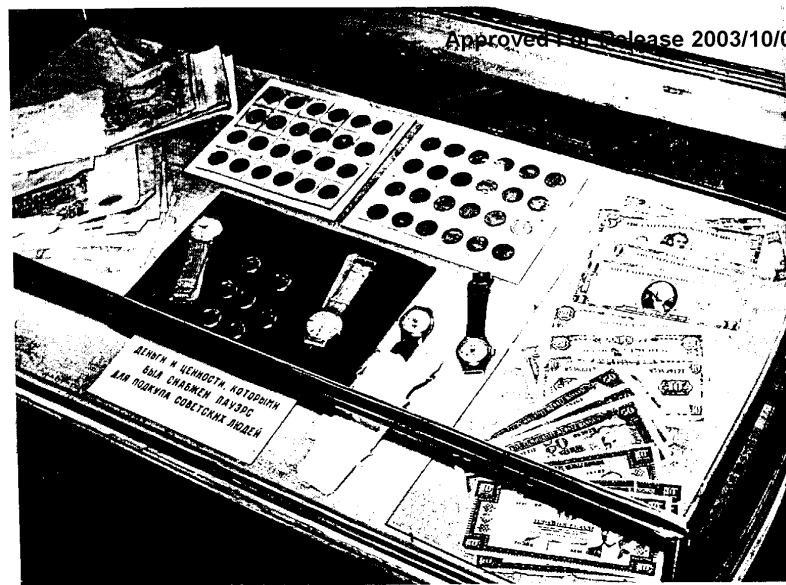
		CARD NUMBER AT-1, 288, 068	
POWERS FRANCIS D.		EXPIRATION DATE 1964	
1. (Typed name and relationship) DIS-G POWERS		2. (Typed name and relationship) BROWN	
3. (Typed color hair) HEIGHT BROWN 5'10"		4. (Typed weight) 175	
5. DATE OF BIRTH OF BEARER 17 Aug 1923		6. GRADE AND RANK OF SPONSOR SERJANT	
7. SERVICE NO. OF SPONSOR DAF CIV		8. AUTHORIZED PATRONAGE UNLIMITED	
9. THEATER COMMISSARY		10. EXCHANGE UNLIMITED	
SIGNATURE <i>Francis D. Powers</i>			

NON-TRANSFERABLE - VOID IF ALTERED	14. MEDICAL CARE FACILITIES AUTHORIZED NO CIVILIAN UNIFORMED SERVICES	15. DATE OF ISSUE 19 MAY 1958
	16. PLACE OF ISSUE Detachment 10 TUSLO, AL 259, N.Y.	
	17. ISSUING OFFICER SIGNATURE <i>Ray A. Soelberg</i>	
	18. TYPED (GRADE AND NAME) RAY A SOELBERG, Capt, USAF, PM	
WARNING: USE OF THIS AUTHORIZATION BY OTHER THAN PERSON NAMED THEREON OR ANY USE IN VIOLATION OF PROVISIONS OF DEPENDENTS' MEDICAL CARE ACT OF 1956 RENDER'S USER LIABLE FOR PROSECUTION UNDER APPLICABLE FEDERAL LAWS PERTAINING TO FALSE STATEMENTS. (18 USC 1001)		IF FOUND DROPPED IN ANY MAILBOX POSTMASTER - RETURN TO DEPARTMENT OF DEFENSE WASHINGTON, D.C.
19. UNIFORMED SERVICES IDENTIFICATION AND PRIVILEGE CARD		PROPERTY OF UNITED STATES GOVERNMENT



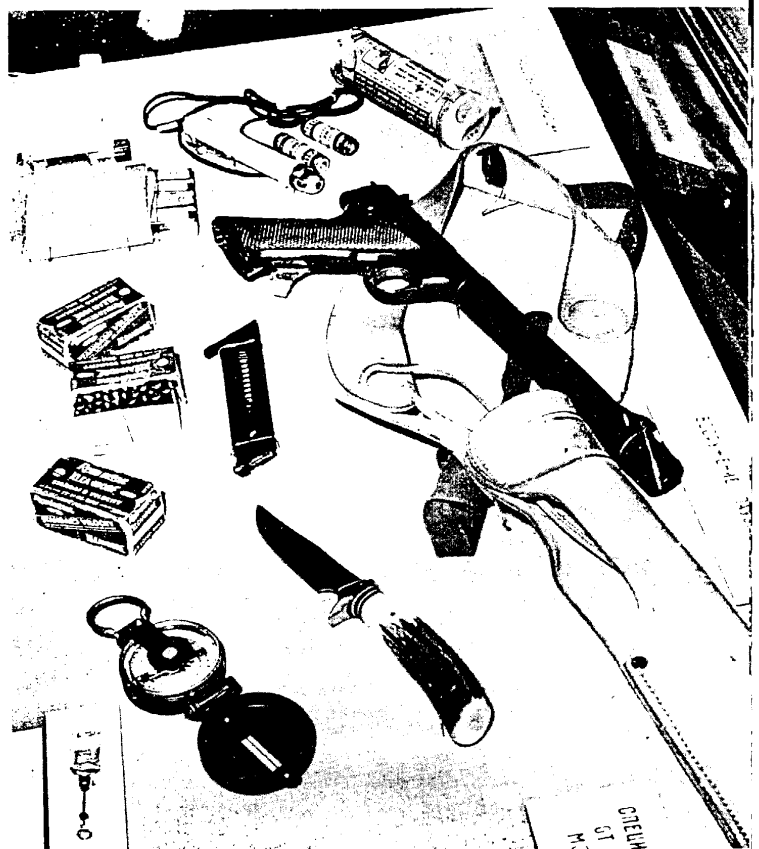
ЛОКХИД U-2
LOCKHEED U-2

19. LOCKHEED'S U-2 powered by single Pratt-Whitney J-75-P-13 turbojet with 8000 kg. thrust.

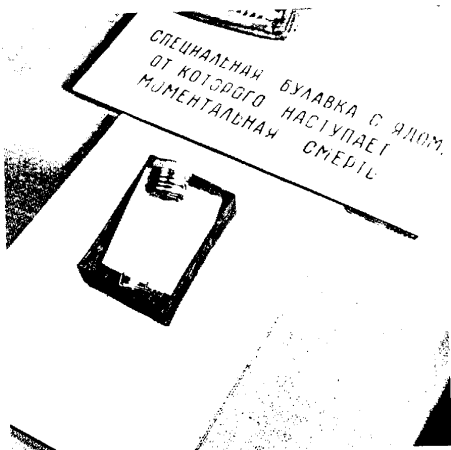


21. CURRENCY, WATCHES, RINGS were part of Powers' "survival" kit in case he was downed.

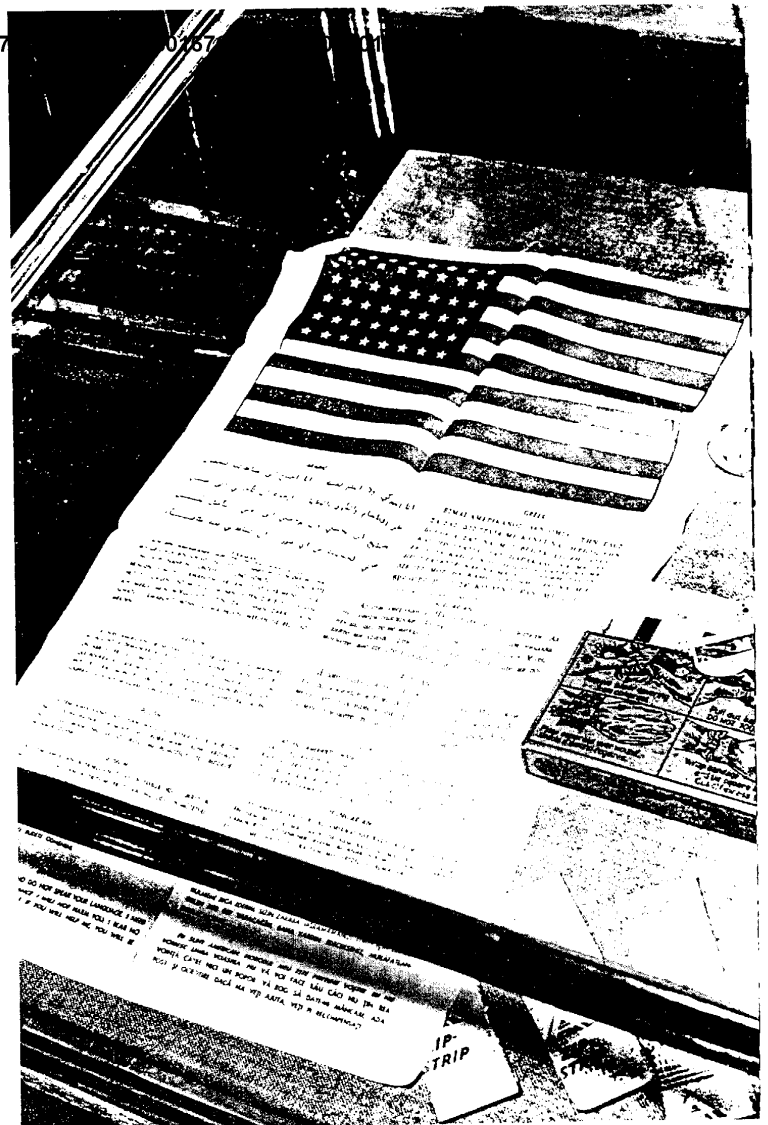
22. DOCUMENTS, CURRENCY AND IDENTIFICATION CARDS as well as photos found on Powers.



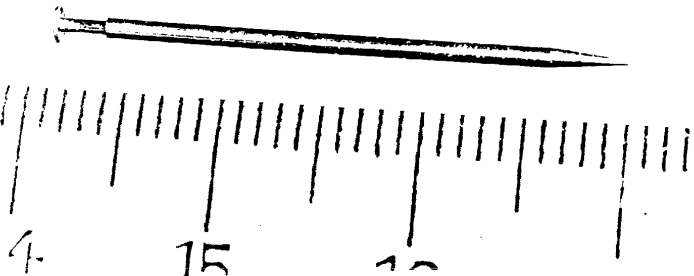
23. MORE OF POWERS "SURVIVAL" KIT including controversial hunting gun, cartridges, compass, signal flares, kindling, morphine, knife.



24. GLASS CARTRIDGE with poison needle. Powers was to commit suicide on capture.



26. "I AM AN AMERICAN . . . I need food, shelter . . . I will not harm you . . . you will be rewarded." Silk cloth poster in 14 languages.



25. 1 1/4-IN. LONG POISON NEEDLE with curare, most deadly known poison to man—known to kill within 30 seconds.



27. FLIGHT MAP FOUND IN POWERS' POSSESSION traces routes across USSR to Bodø, Norway.

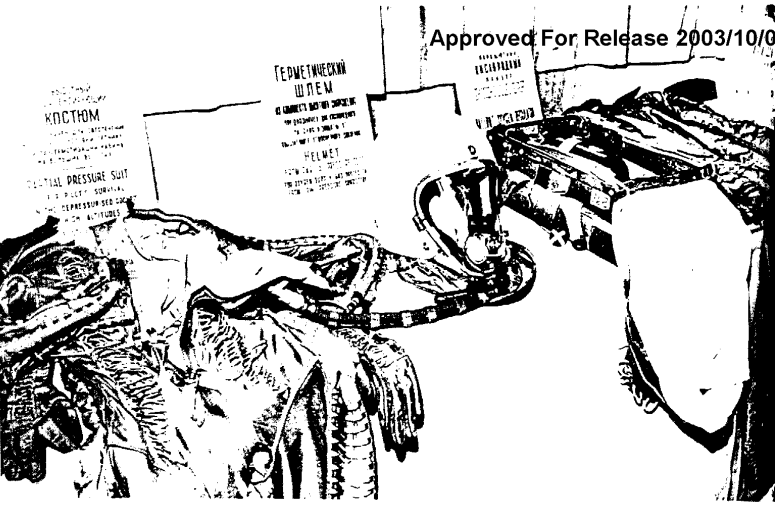
28. CAPTURED FILMS from the U-2 cameras show clear pictures of airfields, installations (see No. 29, 30).



29. KHRUSHCHEV REVEALS POWERS PHOTOS of Soviet airfields, and they show industrial enterprises, too.

30. "See those two white lines? They are lines of our fighter planes," N. S. Khrushchev.

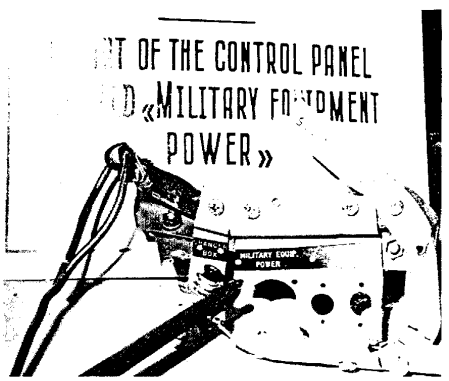




31. POWERS FLIGHT EQUIPMENT including air-tight helmet, pressure suit, parachute, bailout oxygen regulator.



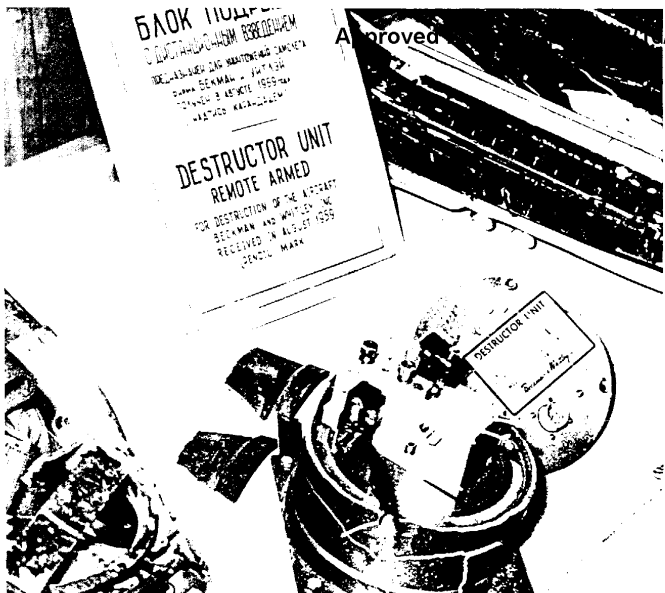
33. U-2 CAMERA used to photograph Soviet airfields and installations. Powers' route. Large supply of film was recovered.



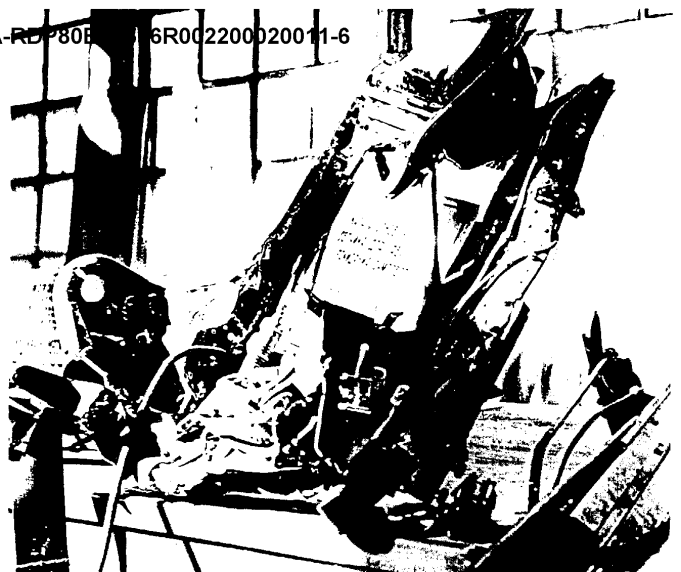
32. EVIDENCE THAT U-2 WAS MILITARY PLANE as used by Soviet Union on Trial of U-2 pilot.



34. SIGN UNDER FUELING HATCH was used as evidence that U-2 aircraft was of military type.



35. DESTRUCTOR UNIT POWERS DIDN'T USE because he believed he would be killed instantly.
 36. CANOPY OF U-2 showing jettisonable and unremovable parts for emergency escape.



37. EJECTION SEAT OF U-2. Powers: "I made up my mind that I couldn't use it."

38. RADIO CHART. Powers could use radio stations of Turkey, Italy and Western Germany.



U-2 CHANNELIZATION

CHANNEL	FREQ	STATION
1.	317.5	Combined Fixer
2.	257.8	Combined Tower
3.	385.4	Combined GCA Secondary Final
4.	344.0	Combined GCA Secondary Search
5.	362.3	Combined APC
6.	353.8	Combined ARTC
7.	261.6	Aviano APC
8.	270.4	Brindisi APC
9.	321.8	Jerry Control
10.	307.9	Moselle Control
11.	339.0	Local Control
12.	342.8	Rhein Control
13.	263.6	Rhein Control
14.	305.4	Incirlk Tower (Sec & DF)
15.	335.8	Incirlk GCA Primary Final
16.	378.8	Incirlk GCA Primary Search
17.		Yellow
18.		Gold
19.	344.6	Pilot to Forecaster
20.	243.1	Emergency



10/07 : CIA-RDP80B01676R002200020011-6

Re-examination of Defendant by Procurator

63

with a base at a distance of some 300-400 miles. But the mountains between Peshawar and myself decreased the possible distance of radio communications to about 200 miles. I was much too far from Incirlik to communicate.

- Q. But was not the absence of radio communications with these bases due to the secrecy of your flight? And was it not an attempt to avoid detection? A. Even if I had been able to communicate I would not have done it because of the possibility of being detected.
- Q. This is precisely what I am asking. I ask the Court's permission to present to Defendant Powers the flight chart which is in Vol. 6, page 25 of the record.

PRESIDING JUDGE: Comrade Secretary, please show it to the Defendant.

(Defendant Powers is presented with the flight chart)

- Q. Defendant Powers, is this your chart? A. Yes.
- Q. Why is the main route of your flight indicated on this map in red and blue pencil? A. I think I explained this yesterday. The red pencil indicates points on part of the route to which I should have kept as close as possible. The blue were less important sections and just show the direction. It stands to reason that during the entire flight I was not to deviate from any of the points. But where the red marks were I was to keep as close as possible.
- Q. Thus the sections marked in red pencil are of particular interest to the Central Intelligence Agency? A. In any case they were of particular interest to the people who gave me this map.
- Q. Whom? A. Inasmuch as I worked for the Central Intelligence Agency I assume that these sections were of interest to them.
- Q. I will ask you now to look at the map. The section of the route from Kandalaksha to Bodee is marked in brown pencil. What does this mean? A. In case of a lack of fuel or oxygen I was to cut my route short and follow this shortest route, but only in case of emergency.
- Q. What countries would you have crossed in flying on the route marked in brown pencil? A. I would have crossed the territory of the Soviet Union, Finland, Sweden, Norway.
- Q. Before your flight on May 1, 1960 Colonel Shelton handed you a piece of black cloth. For what purpose was this cloth? A. I

CIA-RDP80B01676R002200020011-6

don't know. I was already in the airplane when I got it from Colonel Shelton. He ordered me to give this piece of black cloth to the representatives of the 10-10 detachment who were to meet me in Bodoë.

- Q. In the event of your successful flight over the Soviet Union?
 A. At that time he thought it would be successful.
- Q. This was your point of destination, and you were to have been met by representatives of the 10-10 detachment? A. Yes.
- Q. And you were to have handed them this piece of black cloth which was given to you by Shelton before your flight to the USSR? A. Yes.
- Q. In other words this cloth was something in the nature of a password? A. I have no idea.
- Q. But what do you think? A. I did not think that I would need a pass, the plane itself was proof who I was.
- Q. The plane itself and Powers himself. But why this piece of cloth?
 A. I don't know, this was the only instruction I received on this.
- Q. Let us leave this subject. In 1958 as you testified yesterday, replying to my question, you ferried a U-2 aircraft from Incirlik to the air base in Bodoë. What countries did you pass through on that occasion? A. I took off in Turkey and flew over a part of Turkey, then Greece and Italy. I do not remember the exact route, it might have been Switzerland, France, or Austria, Western Germany, and I think Denmark, and Norway.

PROCURATOR RUDENKO: I ask the court to allow the Defendant Powers to see the four topographic maps taken from his plane.

PRESIDING JUDGE: Comrade secretary, present these maps to the defendant.

(The secretary presents Defendant Powers the four topographical maps)

- Q. Defendant Powers, are these your topographical maps? A. Yes, I had maps like these.
- Q. How many maps did you have? A. It was proven to me that I had four. I thought I had only two.
- Q. Did you have them personally? A. They were put in my pocket by other people.
- Q. And in the plane there were two also? A. I don't know, but during the investigation I was shown four.
- Q. And are these your maps? A. Yes, they were given to me.

- Q. What were these maps? A. They were part of my emergency kit and in case of a forced landing were to help me make my way out to the border.
- Q. In other words they were to assist you to get out of the territory of the Soviet Union? A. Yes.
- Q. I would like you to clarify why sections have been cut out of the two maps and what sections they are? A. I have no idea who cut out these sections and why this was done. But I was shown the cut out sections.
- Q. And what should be on these sections judging from the remaining maps? A. As the two of the maps had nothing cut out and the other two had sections cut out, in comparing them I could see what was missing. I do not remember exactly, but I think, there were identification marks, who manufactured them and to whom they belonged.
- Q. That's clear. And who were the makers of the maps and to whom did they belong? A. May I see the maps?
- Q. Please, try to remember. A. If I correctly remember the word "restricted" or "confidential" was cut out. And the words "USA Air Force" were also cut out. The maps were on cloth.
- Q. Why was this cut out? A. I have no idea. The first time I knew about it was when I saw them here.
- Q. Evidently this was done to camouflage whose maps they were and where they were made? A. That might be so, but why would they have sections cut out on two maps and leave them on the other two?
- Q. This is quite clear, Defendant Powers. The two maps with these identifications cut out were in your possession and were to assist you, as you said, in getting out of the Soviet Union, but the other two maps were in the plane which you were to have destroyed on the orders of your masters? A. I was given only two maps and was told they would help me in getting out of the country. What maps were given me I find it difficult to establish at present.
- Q. These maps were found on you when you were searched and the other two in the remains of the plane. A. Which were found where, I do not know.
- Q. Among the articles in your kit we found an appeal in 14 lan-

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world as well. And I assume a flight like this would be to look for them I suppose. But I repeat, I do not know and I'm only expressing my own opinion.

- Q. Defendant, did you realize whether by intruding into the airspace of the Soviet Union you were violating the sovereignty of the USSR? A. Yes I did.
- Q. Why did you agree? A. I was ordered to do so.
- Q. Do you think now you did your country a good or bad service? A. I would say a very bad service.
- Q. Did it not occur to you that by violating the Soviet frontiers you might torpedo the summit conference? A. When I got my instructions, the summit was farthest from my mind. I did not think of it.
- Q. Did it occur to you that a flight might provoke military conflict? A. The people who sent me should have thought of these things. My job was to carry out orders. I do not think it was my responsibility to make such decisions.
- Q. Do you regret making this flight? A. Yes, very much.

PRESIDING JUDGE: Defendant Powers, I will ask you now to answer the questions of People's Assessor Major General of the Air Force Zakharov.

**EXAMINATION OF DEFENDANT POWERS
BY MEMBER OF THE COURT ZAKHAROV**

- Q. Defendant Powers, would you tell us what types of planes you have flown, what distances you have flown. It would be desirable to know the number of flight hours for each type of planes separately. A. You mean since I started flying?
- Q. Yes. A. During my training I was flying two different airplanes: T-6 and T-33, as well as F-80 which was practically the same as T-33 but with only one seat. It seems likely that during training I had something like 300 hours. After that I started flying F-84G which is an American Air Force fighter aircraft. I do not remember the hours, roughly, 400-500. Then I started flying an F-84F. This is a later model of the same plane. I had some 100-200 hours on that plane. Then I started flying a U-2 and had approximately 500 hours on the U-2. During the time of flying the U-2 I also flew a T-33 plane and probably had 200 hours in it.

I also worked as co-pilot on a cargo-type airplane but for very little time.

- Q. You testified yesterday that you spent three or four days in Peshawar before your May 1 flight. What personal preparations did you conduct for flying in general and especially what pre-flight preparations did you conduct? A. The only preparations were made the morning before the flight, the rest of the time I spent reading.
- Q. What did these preparations consist of specifically? A. On the morning of May 1st, I think it was 3 or 4 hours before the flight, I was awakened, given breakfast and told that I was to fly today. Another pilot was awakened at the same time and two and a half hours before the take-off we started to breathe oxygen. Soon after that the maps were given to me and explanations were made. There were a few points pointed out on the map that might help me to navigate. One of them consisted of a possible rocket-launching site I might see. Another was pointed out as something there but I do not know, and there were some airfields, I don't know how many. I cannot remember the entire briefing, for much time has passed since then.
- Q. On this map were marked the routes and the assignments of your flight with figures and symbols. Who prepared these maps? A. I didn't see who prepared them and can only assume that it was done by the navigator of the detachment.
- Q. How much time did you spend in studying the route and the map? A. I had very little time to study the route and the map. I was briefed at the same time. All this took place between the time I put on the helmet until I started getting dressed which was probably 45 minutes before the scheduled take-off. It should be roughly 1 hour 15 minutes.
- Q. How much time did you spend preparing for the flight the first time you flew along the Soviet border in 1956? A. I knew about this flight several hours before, if I remember correctly it was the day before.
- Q. What were your plans of action during the flight in the air space of the Soviet Union in the event of encountering Soviet fighter planes? A. I was told there was no danger of this. I was also told that I might see Soviet fighter aircraft, and I did see the trail of a plane, but at a lower altitude. I could not tell what

PRESIDING JUDGE: Defendant Powers, do you have any questions of the witness?

DEFENDANT POWERS: No, I do not.

PRESIDING JUDGE: Do you have any remarks concerning the testimony of the witness?

DEFENDANT POWERS: The testimony is correct. I would like to take this opportunity to thank the witness for what he has done for me.

PRESIDING JUDGE: Witness Asabin, be seated in the courtroom. Comrade Commandant, call the witness Cheremisin.

(Cheremisin enters the courtroom)

PRESIDING JUDGE: Your name?

WITNESS CHEREMISIN: Cheremisin, Anatoly Fyodorovich.

PRESIDING JUDGE: Tell the Court what you know about this case.

WITNESS CHEREMISIN: While visiting my relatives on May 1, 1960, I heard a strong explosion at about 11 in the morning which made me wonder what it was all about. I went out into the street and noticed a parachutist in the sky. I ran to the place where he probably would land. The parachutist when landing fell. At that moment, Asabin immediately ran up to him and helped him spill the air from the parachute. I, as well as Surin and Chuzhakin, at the same time ran up to him and helped the parachutist to get on his feet. We all started to help him remove his equipment. When the helmet and the earphones were removed from him we asked him: "Who are you? Where are you from? What happened to you?" But there was no reply. This cautioned us. I noticed that the stranger wore a long-barreled pistol on the belt of his flying suit and took it away from him.

After this I and Asabin took the parachutist under his arms and led him to a car which was standing close by. Chuzhakin started up. Surin gathered up all his equipment. While we were getting the stranger into the car, Asabin found and removed a dagger from him. We took the parachutist to the neighbouring village, to the village Soviet. On the way the stranger asked for something to drink. We stopped the car and gave him something to drink. On the way to the village, I wrote on the dusty interior of the car the letters "USA" and asked him if he was an American. It was evident that he understood me and nodded his head. While we were thus engaged two comrades from the State Security organs arrived

and we turned over the parachutist together with his belongings to them. This is my story.

PRESIDING JUDGE: Does the Procurator-General have any questions?

PROCURATOR RUDENKO: No, we have none.

PRESIDING JUDGE: Does the Comrade Defense Counsel have any questions?

DEFENSE COUNSEL GRINEV: None.

PRESIDING JUDGE: Does the Defendant Powers have any questions of this witness?

DEFENDANT POWERS: I have no questions.

PRESIDING JUDGE: (To the Witness Cheremisin) You may be seated in the courtroom.

(A 20-minute adjournment is announced.)

(After the adjournment the court hearing is resumed at 12 noon.)

COMMANDANT OF THE COURT: Please rise. The court is coming.

PRESIDING JUDGE: Please call in witness Chuzhakin.

(Witness Chuzhakin enters)

PRESIDING JUDGE: What is your surname, name and patronymic?

WITNESS CHUZHAKIN: Chuzhakin, Leonid Alexeyevich.

PRESIDING JUDGE: Tell the court what you know about this case.

WITNESS CHUZHAKIN: On the morning of May 1st, I drove in a car to a neighbouring village. On my way back, at about 11:00 a.m., I suddenly heard an explosion. Seeing Surin standing by the road, I stopped the car and asked what had happened. In reply, Surin pointed up and I saw a parachutist descending. We then decided together to help the parachutist, not knowing whether he was a Soviet person or a foreigner.

Surin, Cheremisin and I rushed up simultaneously to the parachutist. Asabin was already there. The four of us helped the parachutist to his feet, freed him from the parachute, the helmet and the earphones attached to it and the gloves and asked what had happened, but he answered in a strange language. This made us immediately suspicious. On seeing that he had a long-barreled pistol, we immediately took it away and decided to turn him over to the State Security organs. I ran to the car and started it up and

Asabin, Surin and Cheremisin took the parachutist and his goods to the car. We seated the parachutist in the car and put the parachute and all his equipment in the luggage compartment. When we were helping the parachutist into the car we noticed that he had a dagger and took it away. When we seated the parachutist we asked him, pointing with fingers, how many flyers there were—one or two. The pilot showed that he was alone. On the way he showed us with gestures that he was thirsty. I stopped the car and we gave him some water. The pilot also asked for a cigarette. My comrades gave him their own cigarettes.

We returned to the neighbouring village where State Security men were already waiting for us. We handed the parachutist over to them. Later, at the pilot's request, I fetched a doctor. This is my story.

PRESIDING JUDGE: Comrade Procurator-General, do you have any questions of the witness Chuzhakin?

PROCURATOR RUDENKO: No.

PRESIDING JUDGE: Comrade Defense Counsel, do you have any questions of the witness Chuzhakin?

DEFENSE COUNSEL GRINEV: No.

PRESIDING JUDGE: Defendant Powers, do you have any questions of the witness Chuzhakin?

DEFENDANT POWERS: No, I have no questions.

PRESIDING JUDGE: Do you believe his statements correspond to the facts in this matter?

DEFENDANT POWERS: Yes.

PRESIDING JUDGE: Witness Chuzhakin, you may be seated in the Courtroom. Comrade Commandant, I ask that the Witness Surin be brought in.

(Witness Surin enters the Courtroom)

PRESIDING JUDGE: Your name?

WITNESS SURIN: Surin, Vladimir Pavlovich.

PRESIDING JUDGE: Please tell the Court what you know about this case.

WITNESS SURIN: I was at home on May 1st, 1960, when at approximately 11:00 a.m. I heard a loud noise like that of a jet aircraft, only more piercing. I went out into the street when I heard a loud explosion and saw a column of smoke rise in the distance outside the village. Not understanding what had happened, I looked

up and saw in the air a descending parachutist. At that moment Chuzhakin drove up to me in a car. I pointed to the parachutist and we followed him with our eyes to see where he would land. Then we drove to the spot where we figured he would land. Some 50 meters from the spot where he landed we stopped the car and found Asabin there who was helping to flatten the parachute. We all helped the parachutist rise to his feet and began unfastening the parachute and taking off his earphones, a helmet and gloves. Then I asked him what had happened. He answered in a language we did not understand and shook his head. We realized that he was a foreigner and decided to detain him. Cheremisin immediately took away from him a long-barreled pistol. Asabin and Cheremisin then took him under his arms and led him to the car. At that moment Asabin took away a dagger which the parachutist had. We delivered the parachutist to the Rural Soviet where we handed him over to State Security men. That's all I have to say.

PRESIDING JUDGE: Do the participants in the proceedings have any questions of the witness?

PROCURATOR RUDENKO: No.

PRESIDING JUDGE: Comrade Defense Counsel?

DEFENSE COUNSEL GRINEV: No.

PRESIDING JUDGE: Defendant Powers, do you have any questions of this witness?

DEFENDANT POWERS: No I have no questions.

PRESIDING JUDGE: Do you have any remarks?

DEFENDANT POWERS: I want to express my thanks for the help which was shown to me by all these people on that day. This is the first opportunity I have to thank them. I am happy to thank them.

PRESIDING JUDGE: The court will now hear the experts. Expert Alekseyev, please take the stand.

(Expert Alekseyev comes forward)

PRESIDING JUDGE: What is your surname, name and patronymic?

EXPERT ALEKSEYEV: Alekseyev, Nikolai Alexeyevich.

PRESIDING JUDGE: What is your rank?

determined route at an average speed of 750 kilometres an hour.

The amount of preparatory work on the chart, its size (the total length of the chart is over 3 metres), the thoroughness with which the preparations were made and the multitude of different data entered on it by hand and by special stamps show that the flight had been prepared beforehand; that all the graphic data and calculations on the flight chart were made on the ground before the take-off.

The notes made on the chart during flight show that throughout the flight (as far as the Sverdlovsk area) pilot Powers knew his whereabouts and kept a systematic check on the landmarks over which he flew, i.e., he carried out a flight along a prearranged route.

2. Part of a logbook in which were entered: the name of the pilot Powers, the number of the aircraft, 360 . . . (the last figures were undecipherable), the date and time of the take-off (0126 hrs GMT, May 1, 1960), the call signal of the aircraft "Puppy 68," the presence of special apparatus on board, known by the code letters B-T and the sortie number—4154. Entries in the journal refer to a number of actions by the pilot, the radio apparatus used, the navigational elements of the flight, the expenditure and remaining stock of fuel depending on the distance covered.

This document and, in particular, the entries giving the date and time of take-off, the number of the flight and the estimate of fuel expenditure for the various stages of the route also prove that the flight of the American aircraft over Soviet territory on May 1, 1960 was deliberate and planned beforehand.

3. A cutting from a synoptic chart with the route marked on it and with weather forecasts for each stage of the flight entered on it and instructions concerning landing conditions at the end of the flight. This document is also evidence that Powers' flight was planned beforehand and that very thorough preparations were made.

4. Four sheets of two-sided aerial navigation charts of the U.S. Air Force marked "Confidential"—scale 1:2,000,000—issued by the Aerial Navigation Department of the U.S. Air Force, Washington; the chart was for the territory of Europe and the USSR.

These charts were apparently Powers' reserve to be used in the event of serious deviation from the given route or in case of a forced landing on the territory of the USSR which may also serve to confirm that the flight was thoroughly prepared in advance.

The third group consists of flight documents of the universally accepted type that are required by flight personnel on any flight. These include: record of aerial navigation charts, check list of apparatus on board, list of the aircraft's equipment, directory of European airfields.

After a thorough study and analysis of the materials submitted and the inscriptions made by the pilot in this flight, the expert commission came to the following conclusions: The Pilot Francis Gary Powers belongs to the United States Air Force.

The flight of the American aircraft over the territory of the Soviet Union on May 1, 1960 was deliberate and planned in advance. The charts with the route plotted and the navigational data were prepared on the ground before the flight.

During the flight, Pilot Powers knew his location, regularly controlled the flight by means of given landmarks and in fact had carried out his flight along a previously charted route.

During the flight over the territory of the USSR, Pilot Powers entered on his map, information of an intelligence character and also entered weather conditions.

PRESIDING JUDGE: Do the participants in this proceeding have any questions of the expert Alekseyev?

PROCURATOR RUDENKO: I have no questions.

DEFENSE COUNSEL GRINEV: I have no questions.

PRESIDING JUDGE: Defendant Powers, do you have any questions of the expert Alekseyev?

DEFENDANT POWERS: No questions.

PRESIDING JUDGE: Do you have any remarks to make on the conclusions of the experts?

DEFENDANT POWERS: No remarks.

PRESIDING JUDGE: On the preliminary investigation were you given the materials of the experts?

DEFENDANT POWERS: Yes, I was acquainted with those materials.

PRESIDING JUDGE: You were explained your procedural rights—to submit new questions, be acquainted with these materials and so forth?

DEFENDANT POWERS: Yes.

PRESIDING JUDGE: Expert Alekseyev, I ask you to be seated. Expert Alekseyev, I ask you to submit to the Court your conclusions

in writing. Expert Tyufilin, come forward. Your name?

EXPERT TYUFILIN: Tyufilin.

PRESIDING JUDGE: Your given name and patronymic?

EXPERT TYUFILIN: Yuri Vsevolodovich.

PRESIDING JUDGE: Your title?

EXPERT TYUFILIN: Lieutenant Colonel of the Engineers.

PRESIDING JUDGE: Do you have a scientific degree?

EXPERT TYUFILIN: No I do not.

PRESIDING JUDGE: I ask you to submit the findings of the experts.

EXPERT TYUFILIN: A commission of experts consisting of officers of the Soviet Armed Forces: Major of the Engineers M. P. Ishcheyev, Major of the Engineers A. P. Koptev, and myself, Lieutenant Colonel of the Engineers Y. V. Tyufilin, was appointed in accordance with the decision of the investigator of May 20, 1960.

The commission of experts was to establish: were there identification marks on the Lockheed U-2 plane which was shot down on May 1, 1960, showing to what state it belonged.

For its investigation, the experts were given remnants of the U-2 plane.

The plane wreckage, particularly the wings and fin, had a well-preserved coated paint and varnish surface, which permitted the experts to establish whether or not the aircraft had any identification marks.

The result of our investigation revealed that there were no identification marks of any kind. The Court might confirm this by looking at the photographs, located in this case, in volume 8, page 79. The investigation also established that the outer varnish and paint layers was of the same color all throughout every part of the U-2 plane, and the paint was of such consistency and thickness and uniformity of color that no other tracings of any other paint were found.

In general, there were no distinguishing marks in this plane of any kind and the commission dissolved the layers of paint where the markings were usually found but found no tracings of identity marks. On American military planes, as revealed by official Soviet and foreign published materials, as a rule, the markings are found on the upper panel of the left cantilever and the middle of the lower panel of the right cantilever.

On the U-2 plane, according to the photographs appearing in the

journal "Aviation Week", number 21 on May 23, 1960, on its fin there is a sign "NASA" and underneath that sign, the number of the plane, and because of this we paid special attention to those places to discover erasures.

Based on that, we established that in the usual places where there would be identity markings covered by layers of paint, its color and other factors, there were no tracings of any marks. The upper parts of the wings has a six-layer covering of paint and the layers of paint were in the following order: yellow, dark gray, white, dark gray, yellow and dark gray. Underneath none of these layers was any tracing of any identity markings.

In the opinion of the expert commission, the downed U-2 plane of May 1, 1960 did not have any identification marks signifying what state it belonged to.

PRESIDING JUDGE: Do the participants in this proceeding have any questions of the expert Tyufilin?

ANSWERS: No.

PRESIDING JUDGE: Defendant Powers, do you have any questions of the expert?

DEFENDANT POWERS: Yes, I have a question. Would it be possible for identification marks to be put on top of the coating and then removed?

EXPERT TYUFILIN: Theoretically, of course, it is possible.

DEFENDANT POWERS: I ask this because this plane has been in Incirlik for several months and I saw identification marks on all the planes there. I cannot agree that there have never been any identification marks on this plane.

PRESIDING JUDGE: It is your right, defendant, to agree or not, but the experts, on the basis of investigating the paint covering arrived at the conclusion that there were no identification marks and there are none as you saw for yourself when you inspected the plane at the exhibition.

DEFENDANT POWERS: What I was trying to say, previous to this flight there might have been identification marks on the plane. I am no expert in this.

EXPERT TYUFILIN: In principle, there is this possibility.

PRESIDING JUDGE: Defendant Powers, do you have any more questions of the expert Tyufilin?

DEFENDANT POWERS: No.

PRESIDING JUDGE: Please be seated, Defendant. Expert Tyuflin, submit your conclusions to the Court in writing. I ask that the expert Istomin come forward. Your name?

EXPERT ISTOMIN: Istomin, Gleb Alekseyevich.

PRESIDING JUDGE: Your title?

EXPERT ISTOMIN: Doctor of Technical Sciences. Professor.

PRESIDING JUDGE: Will you present the conclusions of the experts on the photographic equipment of the Lockheed U-2 plane.

EXPERT ISTOMIN: In the course of the investigation of the Powers' case, by decision of the investigating bodies, a commission of experts has made a technical examination of the photographic equipment which was on board the Lockheed U-2 aircraft shot down in the Sverdlovsk area on May 1, 1960.

The commission was given the following parts of the photographic equipment for study: a destroyed air camera magazine with four rolls of aerial film 24 cm. wide, separate destroyed elements of the aerial camera, and two rolls of film 7 cm. wide.

The experts were given the assignment to establish:

1. The tactical and technical data of the air camera installed on board the Lockheed U-2 aircraft.
2. The technical characteristics of the aerial films used.
3. From what altitudes and in what areas of the Soviet Union photographs were taken from the Lockheed U-2 aircraft.
4. The possibilities of using the obtained aerial photographs.

The commission of experts, consisting of G. A. Istomin, Dr. Sc. (Tech.); V. A. Bekunov, M.Sc. (Chem.); V. Y. Mikhailov and V. A. Uvarov, both M.Sc. (Tech.); B. S. Samokhvalov and L. V. Zakurdayev, senior scientific workers; and Col. of the Engineers V. I. Krovyakov, Col. of the Engineers A. Y. Pogozhev, and Lt. Col. of the Engineers B. G. Kurnakov, officers of the Soviet Army, has examined in detail the submitted parts of the plane's photographic equipment, processed the film, studied and map controlled the obtained aerial photographs and studied the films with the object of determining their technical characteristics.

The commission of experts has drawn up a detailed technical finding. Allow me to dwell on the main materials of the experts' finding.

A study of the remnants of the U-2 photographic equipment enabled the commission to establish that a wide-angle long-focus air

camera model "73-B" was installed on this aircraft for aerial reconnaissance photography. The name of the model of the camera is given on several company name-plates fastened to the camera body. The locks of the removable spindles of the film spools carry an inscription showing that they were made in the United States.

For its tactical and technical characteristics the "73-B" model is a reconnaissance air camera and its salient feature is that it is designed to photograph large areas from the air in the course of one flight.

The air camera has a rotating lens for ensuring multi strip photography.

In the course of the flight on May 1, 1960, the air camera was used for seven-strip photography consecutively through seven glass-encased aircraft windows in the skin of the plane. The lens cover was from 160 to 200 km. in width.

The camera was loaded with two films, each of which was 24 cm. wide and about 2,000 m. long. The films were placed parallel to the focal plane of the camera so that during each action of the shutter two films were exposed with a total size of 45x45 cm. The supply of film in the camera made it possible to receive about 4,000 paired aerial pictures, i.e., to photograph in the course of the flight on May 1, 1960, a route of about 3,500 km.

The air camera had a lens with a rated focal length of 915 mm; the rated focal length of the lens and the actual focal length of the aerial camera, equal to 944.7 mm, are indicated on the body of the lens.

The camera lens with a sufficiently long focus made it possible to obtain from the high altitudes at which the plane was flying relatively large-scale photographs suitable for the purposes of aerial reconnaissance. The image scale of the pictures obtained over the territory of the USSR on May 1, 1960, was 220-230 metres in one centimetre. On photographs of such a scale it was possible to determine the designation of most industrial and military installations.

The film used in the "73-B" model camera was studied with regard to its photographic characteristics, resolving power, spectral properties, structure, composition of the emulsion layer and the properties of the base.

The film which was on the Lockheed U-2 aircraft possessed high sensitivity and could ensure aerial photography throughout the day. It is a film of a special grade designed for aerial surveys from high

altitudes. Compared with the film used in American spy balloons of the 1956 model, the given grade has been improved for a number of specifications essential for high-altitude aerial photographic reconnaissance of military, industrial and topographic objects.

The film from the U-2 aircraft was processed. The negatives obtained after laboratory treatment were identified and map-controlled.

The results of the map control of the negatives showed that aerial photographs were taken from the U-2 aircraft on May 1, 1960, over the territory of the USSR along a route passing from an area West of Tashkent to Sverdlovsk.

The route along which photographs were made conforms to the route of flight plotted on the flight map which Powers had.

The altitude at which aerial photographs were taken was determined by the pictures with account of the actual focal length of the camera; according to this determination, the altitude was 20,000-21,000 metres.

Identification of the aerial pictures shows that the latter contain diverse espionage information about objects located along the route of the plane's flight. The aerial photos show large inhabited places, industrial and military installations—factories, plants, electric stations, warehouses, mines, various means of communication, air fields, and anti-aircraft defense means. The aerial photos can be used both for espionage purposes and for specifying topographical maps.

The commission of experts established the following:

1. The 73-B model camera, installed on board the Lockheed U-2 aircraft is a special reconnaissance air camera designed for aerial photography of a large area during high-altitude flights.
2. The film used in the camera installed on board the Lockheed U-2 aircraft is of a special grade designated for aerial photographic reconnaissance of military and topographical objects from high altitudes.
3. The photographing of the territory of the Soviet Union was made from an altitude of about 21,000 metres on a sector running from an area North of the Soviet-Afghan state border, up to the Sverdlovsk area. The route of the flight (judging by the results of map control of the aerial photographs) conforms to the route plotted on the flight map Powers had.

The total supply of film in the camera made it possible to photograph a route of about 3,500 km long, i.e. to photograph a considerable part of the territory of the Soviet Union along the route of the plane's flight.

4. The aerial photographs made contain sufficiently complete and diverse espionage information regarding industrial and military installations located on the photographed territory and can be used both for espionage purposes and for compiling and correcting topographical maps and determining the coordinates of military and topographical objects.

Thus, a study of the remnants of the photographic equipment of the Lockheed U-2 aircraft which violated the state frontier of the USSR on May 1, 1960, and the materials of the aerial photography taken from it, lead to the conclusion about the reconnaissance nature of this equipment and the espionage purposes of the flight by this aircraft.

PRESIDING JUDGE: Do the participants in this court proceeding have any questions to the expert Istomin?

PROCURATOR RUDENKO: No.

DEFENSE COUNSEL GRINEV: The Defense—none.

PRESIDING JUDGE: Defendant Powers, do you have any questions to the expert Istomin?

DEFENDANT POWERS: No.

PRESIDING JUDGE: (*Speaking to the Expert Istomin*) I ask you to submit your findings to the Court in writing. Expert Andreyev, will you come forward. Your name?

EXPERT ANDREYEV: Andreyev, Rostislav Aleksandrovich.

PRESIDING JUDGE: Your title?

EXPERT ANDREYEV: Colonel of the Engineers.

PRESIDING JUDGE: Do you have a scientific degree?

EXPERT ANDREYEV: No, I do not.

PRESIDING JUDGE: Please relate the findings of the commission of experts.

EXPERT ANDREYEV: In accordance with a decision of the investigator, a group of experts consisting of officers of the Air Force Colonel of Engineers R. A. Andreyev, Lieutenant-Colonel of Engineers M. V. Krotov, Lieutenant-Colonel of Engineers V. N. Faikin, Lieutenant-Colonel of Engineers I. B. Korochansky, and Lieutenant-Colonel of Engineers A. F. Lebedev, M.Sc. (Technology) made an

examination of the radiotechnical apparatus and the magnetic tape recordings found on May 1, 1960, on the spot where the Lockheed U-2 aircraft fell in the vicinity of the city of Sverdlovsk.

The experts were assigned to answer the following questions:

1. the purpose of the above-mentioned instruments;
2. whether there was a recording on the magnetic tape, and if so, the nature of the recorded signals or reports;
3. what was registered with the help of those recordings and whether the recordings contain intelligence data about the territory of the USSR.

The commission of experts had at their disposal the following:

- a) apparatus for detecting radio signals, including:
 - antennas for various wave bands;
 - a high-frequency reconnaissance receiver MP-11504 in the 3-centimetre wave band;
 - a reconnaissance receiver MP-11048 in the one-metre wave band;
 - an amplifier;
 - a high-frequency filter;
 - high-frequency switches;
 - units MP-11471 of video amplifiers MP-10002;
 - a distribution unit MP-1230 with inter-unit connective cables;
- b) aviation tape recorders (one partially and the other heavily destroyed);
- c) six tape recorder reels with ferromagnetic tape. A part of the magnetic tape had burned up, apparently as a result of a deliberate explosion. About 250 metres of tape (approximately 1.5 hours of work) was in good condition, completely intact and suitable for reproduction. Two of the (feed) reels contained magnetic tape with no recordings.

All the units of radio apparatus bore the legend "MP" (Military Procurements) with corresponding numerical indices. These indices show the apparatus to be the property of the U.S. Defense Department and that it is top secret in the U.S.A. There are no markings of the company or other establishment which manufactured the apparatus as a whole. However, parts, assemblies and separate units bear many trade marks of such American companies as Huggins Labs, of Menlo Park, California, Hewlett-Packard, General Electric, Raytheon, Sylvania, Transco Products, California, Micro Lab and many others.

The design and type of the apparatus are such that they point to its having been specially prepared for the flight on May 1, 1960.

The Antenna Gear

The antennas of the apparatus in question are wide range receiving antennas working in different bands of an extremely broad range of radio wavelengths. There were two antennas of the same type of each band. All the antennas were fixed and installed in the lower part of the fuselage of the Lockheed U-2 aircraft behind radio-transparent fairings. Some of the radiotransparent windows in the fairings were on detachable frames. The antennas of the 3-centimetre band were of the parabolic type. Together with the waveguide assemblies they ensured the reception of signals of reconnoitered radiotechnical stations in the 2.3 to 4.0 centimetre band.

The antennas MP-11719 for the centimetre and decimetre wave bands had wideband balanced triangular dipoles over a metal mirror. The wavelengths which such an antenna could pick up could extend from approximately 6 to 20 centimetres; in the lower frequencies his range was limited by the above-mentioned high-frequency filter in the 15 centimetre band (2,000 Mc/s).

The antennas of the decimetre wavelength band are of a flat helical type and can ensure reception over a very wide range of wavelengths, which, however, was limited, by a high-frequency filter, to the 30 cm. to 100 cm. band. It is well-known that in the U.S.A. flat helical antennas are recommended for use as broad-band antennas with reduced aerodynamic resistance for use in aircraft aids for radio reconnaissance and radio suppression (see "Aviation Week," July 14, 1958).

The presence of two identical antennas for each band shows that they could determine the bearings of the radio and radar stations under reconnaissance.

Thus, the above antennas are typical antennas for radio reconnaissance apparatus which cover a sufficiently wide range of wavelengths for this purpose and ensure the possibility of determining the location of radio and radar installations.

Radio Receiving Instruments

The commission of experts examined a number of receiver units. The presence of these units together with the antenna assemblies,

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Soviet Union and different towns, big industrial and administrative centers of our country, and also data on separate radar stations belonging to this system.

2. These data were recorded on the ferro-magnetic tape of tape recorders on which signals of ground radar stations of the anti-aircraft defense system of the Soviet Union had been recorded.

PRESIDING JUDGE: Do the participants have questions to the expert? No questions? Defendant Powers, do you have questions to the expert or remarks in connection with the findings of the commission?

DEFENDANT POWERS: No.

PRESIDING JUDGE: Expert Andreyev, please submit the written findings of the commission of experts. The hearing is adjourned till 4:30 p.m.

(The hearing adjourned at 2:00 p.m.)

range and accuracy are the same as those of conventional pistols. The cartridges are fed into the pistol from a detachable single-row magazine housing 10 cartridges. With loading magazine the pistol weighs 1.3 kg.

This pistol is of the newest type of noiseless personal firearm. A characteristic feature of the present model is that the report is reduced not only by a silencer but also by special design of the barrel. The report of a shot from this pistol is much weaker than the report of a conventional pistol. The trade mark and inscriptions in English indicate that the pistol was manufactured in the United States by High Standard Mfg. Corp., located in New Haven, Connecticut, and that the company manufacturing these pistols has applied for a patent.

By its ballistic and technical characteristics and design this pistol is neither a sporting firearm nor a hunting weapon nor a conventional army weapon nor a personal weapon for officers of the armed forces. The pistol is designed for noiseless firing at people in attack and defense. The pistol is completely in order and fit for use. This is the description of the pistol.

The cartridges submitted for investigation are widely used in the U.S.A. and are designed for shooting from rifles, revolvers and semi-automatic pistols and can be shot from a 0.22 calibre noiseless pistol.

The three cartridge cartons bear trade marks in English which indicate that the cartridges were manufactured in the U.S.A. by Remington Arms Co., Inc. of the Du Pont concern.

The cartridges are in good condition and are fit for firing.

The above-mentioned phials represent an incendiary means consisting of a packing, combustible substance and a friction-type ignition device. On the exterior surface of the packing there is a brief instruction for use of the phials written in English. Such phials are manufactured for special use when it is necessary for flame to act for a comparatively long time on the object to be set on fire.

The cylindrical container made of tin has lids at both ends and represents a combined signal flare for daylight and night time use with a friction ignition device. The container is filled with a pyrotechnical substance: at one end with a coloured substance for forming smoke,

probably of orange colour, and clearly observable from some distance

at night; at the other end, with a substance for coloured, most probably red, lighting clearly observable at a great distance at night.

Smoke signals and coloured light signals are used both for military and civilian purposes in the air, over sea and land for transmission of signals and commands and for communication. On the exterior of the container there are inscriptions containing instructions for use and indicating that the signal is of type 13, model 0, and that it was manufactured in the U.S.A. by Aerial Products, Inc., in Electon, Maryland.

PRESIDING JUDGE: Do the participants in the trial have any questions to expert Voroshilov?

PROCURATOR RUDENKO: I do not.

DEFENSE COUNSEL GRINEV: I do not.

PRESIDING JUDGE: Defendant Powers, have you any questions to expert Voroshilov?

DEFENDANT POWERS: I have no questions, but I would like to make an explanation.

RESIDING JUDGE: Please.

DEFENDANT POWERS: Would it be possible for me to see one of those things referred to, a phial?

RESIDING JUDGE: Comrade Secretary, show them. Which one?

DEFENDANT POWERS: The small one. (The court secretary shows the phial to the defendant).

INTERPRETER BELITSKY: The Defendant asks permission that he interpreter read out the instructions on the cover.

RESIDING JUDGE: Please read them.

INTERPRETER BELITSKY (reading): "Ignition phial M-2, combustible. To ignite, break open red lid with the pin, pull wire from ignition device. Do not handle red section. Use thin piece of dry wood as shown in drawing." And there is the illustration of a campfire. Defendant Powers claims that this substance is used to light campfires, and in particular, with damp wood.

DEFENDANT POWERS: As regards the pistol it was given only for hunting and I took it for this purpose. Unfortunately, nobody knows that I cannot kill a person even to save my own life.

RESIDING JUDGE: Defendant Powers, you are aware that at night it is difficult to hunt game.

DEFENDANT POWERS: Yes, I know. This was to be used only in case I had a forced landing.

PRESIDING JUDGE: Expert Voroshilov, please submit the findings of the experts to the court in written form. Expert Burmistrov-Zuyev, please take the stand. What is your surname?

EXPERT BURMISTROV-ZUYEV: Burmistrov-Zuyev, Nikolai Mikhailovich.

PRESIDING JUDGE: What rank do you hold?

EXPERT BURMISTROV-ZUYEV: Lieutenant-Colonel of the Engineers.

PRESIDING JUDGE: Do you have a scientific degree?

EXPERT BURMISTROV-ZUYEV: I do not.

PRESIDING JUDGE: I ask you to tell the court about the findings of the experts.

EXPERT BURMISTROV-ZUYEV: Lieutenant-Colonel of the Engineers N. M. Burmistrov-Zuyev, Lieutenant-Colonel V. P. Yefanov, Lieutenant-Colonel of the Engineers K. A. Lepshchikov, and Captain of the Engineers L. A. Shushko, officers of the Soviet Army, were instructed by the investigation authorities to carry out a technical examination of the special mechanism — the destructor unit — found on May 1, 1960, in the wreckage of the Lockheed U-2 aircraft shot down in the vicinity of the city of Sverdlovsk.

The experts were asked to answer the following questions:

What is the construction of the destructor unit? By what means is the unit operated? With what explosives is the unit charged and what destruction is it capable of effecting? What is the purpose of the destructor unit?

As a result of a technical examination, we have established:

1. Design of the Destructor Unit

The destructor unit (Model 175-10A) was manufactured by the Beckman and Whitley and was located near the cockpit. The unit consists of a housing containing an explosive, and a cover; there is also an exploder with a safety catch, electric detonators, microswitches and wires connecting the unit to the control system of the aircraft.

The housing of the unit is a metal cylinder divided into two parts by a partition.

The lower part contains the explosive and the upper part, the exploder.

The exploder also contains a safety device consisting of a rotating electromagnet with a shaft and a safety catch. There is an aperture in the shaft to take the safety catch which also has two detonator caps pressed into it. Another two detonator caps are pressed into the partition of the unit's housing.

When the unit functions, the electric detonators and the detonator caps of the shaft and the partition form a single detonating circuit for the transmission of the detonation from the electric detonators to the basic explosive charge. This is effected by turning the magnet shaft into the working position and thus closing the microswitches in the feeder circuit of the electric detonators.

When the unit is at 'safety,' i.e., when the safety catch is inserted, no explosion occurs because the safety catch prevents the shaft of the electromagnet from turning to the working position and, consequently, prevents the feeding of the electric detonator circuit.

2. Methods of Operating the Destructor Unit

The unit is operated from the pilot's cockpit.

On the panel in the pilot's cockpit supplying alternating current to the automatic pilot, bank indicator and other apparatus using electric power, there is the word 'explosion' under which it is assumed, there was a special switch for remote control.

The elements of the remote control circuit were not found.

For this reason it is impossible to reconstruct the remote control system of the unit exactly. On the basis of the general design of the unit, however, the following variants of a remote control system are possible:

1. Electric control with a timing mechanism:
2. Electric control without a timing mechanism.

Both designs involve placing the mechanical safety device in the working position, i.e., the withdrawal of the safety catch from the mechanism effecting the explosion.

The safety catch may be connected mechanically with any part of the aircraft that separates when the plane is abandoned by the pilot (for example, with the cockpit ejector system).

Should it be necessary to blow up the aircraft when grounded, the safety catch may be withdrawn by hand.

your findings in strict accordance with the materials of the case and the special knowledge which you have. You are responsible in accordance with Article 95 of the Criminal Code of the RSFSR for giving deliberately false findings. I ask you to give the Court the necessary signed statement. Go up to the Secretary.

(Zhdanov goes up to the Secretary and signs.)

Expert Zhdanov, you participated in the commission of experts during the preliminary investigation. Please inform the Court on the findings of the commission of experts.

EXPERT ZHDANOV: In accordance with the decision of the investigator of May 4, 1960, a commission of experts including Air Force Major-General N .V. Voronov, chairman, and members: Air Force Major-General V. M. Lavsky, Colonel B. G. Kryukov, Colonel Y. V. Sergovsky, Lieutenant-Colonel S. M. Andianov and myself, Colonel I. I. Zhdanov, studied the maps, films and other materials discovered among the remains of the plane shot down in the vicinity of the city of Sverdlovsk.

The all-round and detailed study of the above materials provided the experts with the opportunity of drawing conclusions that the flights of the American pilot on the Lockheed U-2 plane on May 1, 1960 was premeditated, prepared in advance and was conducted with reconnaissance aims.

This is shown by the specially prepared map found in the wreckage with the planned and marked route of flight from the Pakistan area (Peshawar airfield) in the northwestern direction through the Tajik, Uzbek, Kazakh republics, the Southern Urals up to Sverdlovsk with a turn towards Kirov, then to the White Sea, crossing the eastern part of the Kola Peninsula and leaving along its northern coast to the territory of Norway.

The total length of the route amounts to some 6,500 kilometers.

An analysis of the flight chart showed that the plane flew from the Peshawar airfield to the Sverdlovsk area along the route set with an average speed of some 750 kilometers an hour. This is confirmed by the film taken of sections of the locality and notes on the course and the actual location of the plane with the notes made on the flight chart of the time by hand with red and black pencils.

The chart had notes made beforehand on switching definite instruments and equipment on the plane on and off during the flight over the territory of the Soviet Union; incidentally, sections of the

route were marked to which the pilot should have paid special attention.

The investigation and study of documentary data conducted by the commission of experts give ground to draw the conclusion that the American plane which was shot down on May 1, 1960, in the vicinity of the city of Sverdlovsk was a specially prepared air reconnaissance plane which had the task of crossing through the entire territory of the Soviet Union from the Pamir area to the Kola Peninsula with the aim of reconnoitering military and industrial objectives, important districts of the Soviet Union, by photographing them. The developed aerial films and the map control of the films provided the opportunity of establishing that the locality photographed from the plane with a long-focus camera is the territory of the Soviet Union. A greater part of the route from the west of Tashkent and up to Sverdlovsk was photographed, in particular, airfields and certain other objectives, the information on which constitutes a state and military secret of the Soviet Union.

PRESIDING JUDGE: Are there questions to expert Zhdanov?

PROCURATOR RUDENKO: No.

DEFENSE COUNSEL GRINEV: No.

PRESIDING JUDGE: Defendant Powers, have you any questions to ask Expert Zhdanov or remarks on the findings of the commission of experts?

DEFENDANT POWERS: No.

PRESIDING JUDGE: Expert Zhdanov, present to the Court the written findings of the commission of experts.

(The Court adjourned at 5:40 p.m.)

THIRD DAY

AUGUST 19, 1960

FIRST SESSION, 10 A.M.

COMMANDANT OF THE COURT: The Court is coming. Please rise.

PRESIDING JUDGE: Please be seated. The session is resumed. Do the participants of the court proceedings have any addenda or pleas pertaining to the legal proceedings?

PROCURATOR RUDENKO: I have no addenda or pleas to the legal proceedings.

DEFENSE COUNSEL GRINEV: I likewise have no addenda or pleas.

PRESIDING JUDGE: Does the Defendant Powers have anything to add to these legal proceedings?

DEFENDANT POWERS: No, I have nothing.

PRESIDING JUDGE: Do you have any additional pleas concerning the legal proceedings?

DEFENDANT POWERS: No.

PRESIDING JUDGE: At this point the hearings of the case will close. The Court will hear the speeches of the participants in the court proceedings. We will hear now the Procurator-General of the Soviet Union, State Counsellor of Justice Rudenko deliver the speech for the prosecution.

SPEECH FOR THE PROSECUTION

By R. A. Rudenko, Procurator-General of the USSR.

Comrade Judges!

I begin my speech for the prosecution in the present case fully conscious of its tremendous importance.

The present trial of the American spy-pilot Powers exposes the crimes committed not only by the Defendant Powers himself, but it completely unmasks the criminal aggressive actions of United States ruling circles, the actual inspirers and organizers of monstrous crimes directed against the peace and security of the peoples. At the same time it has again been shown that in the struggle

the four powers in Paris on May 16, 1960, declared, in an effort to prevent the wrecking of the Summit conference, that the Soviet Union, notwithstanding the provocative actions of the United States Government, considered it possible to take part in the conference provided the United States Government condemned the unparalleled provocation against the Soviet Union, apologized for it and punished those responsible.

President Eisenhower rejected the Soviet Union's just and legitimate demands. The United States Government thereby demonstrated to the whole world its real intention of using the provocative incursion of the U-2 aircraft into the Soviet air space as a pretext to wreck the Summit meeting, plunge the world again into the state of cold war, exacerbate tension in international relations and put a brake on the Great Powers disarmament talks.

In this way the Summit conference was torpedoed by the United States Government.

This was so evident that even prominent U.S. statesmen had to admit that the Summit meeting had been wrecked by the United States Government. I will quote the already known statement by Fulbright, the Chairman of the Senate Foreign Relations Committee, on the results of an investigation into the events which led to the wrecking of the Summit meeting.

Fulbright said:

"It is perfectly clear that the U-2 incident and our handling of it were the immediate cause of the collapse of the conference. It is irrelevant in this connection to argue that Khrushchev came to Paris with a predetermined position to prevent the conference from taking place. The determining factor in reaching this position was the U-2 incident which had occurred two weeks before the conference."

Subsequent events showed what a dangerous, aggressive line was followed by the Government of the United States, which did not stop its provocative actions against the USSR and which remained true to its "policy of balancing on the brink of war."

A great wave of indignation swept the world when it became known that new perfidious acts had been committed by the rulers of the United States who sent an RB-47 military reconnaissance

bomber on a criminal provocative flight into the Soviet Union on July 1, 1960.

And this happened after President Eisenhower's assurance given in May, 1960, that spy flights by American planes into the Soviet air space would be stopped.

Comrade Judges, this trial has attracted the attention of millions of people throughout the world.

The case of the exposed American spy-pilot Francis Gary Powers aroused such a sharp and angry reaction on the part of the Soviet people and all peaceloving people because the exposure of an American intelligence agent, caught red-handed and shot down during an aggressive spy flight in the Sverdlovsk area on May 1 of this year, was simultaneously an exposure of the reactionary ruling circles of the United States of America which have made the national policy of their country a calculated policy of perfidy, provocations and espionage, a "policy of balancing on the brink of war" in the interest of capitalist monopolies.

These reactionary imperialist circles, which have proclaimed the "deterrent policy" and the "positions of strength" policy to be the supreme political principles of the United States, the circles which organized the criminal aggressive intrusion of a military plane into the Soviet Union, have patently shown to what criminal methods, constituting a direct threat to peace and the whole of mankind, they resort.

In their significance and the grave consequences which they have already entailed, let alone those they could have entailed, the criminal actions of the accused Powers go far beyond an ordinary criminal act.

The correct assessment of these acts and the adoption of measures to prevent similar acts in the future is in the interest, not only of the Soviet Union, against whom the criminal encroachment was directly perpetrated, but of the whole of mankind.

The specific circumstances of this case, which were thoroughly examined during the preliminary investigation and in court, the entire course followed by Powers in his bandit flight over the territory of the USSR, cannot but lead any rightminded person who is striving to maintain peace on earth, to draw conclusions concerning the aggressive aims of the United States policy, the violation of an universally recognized standards of international

law by the American militarists and the criminal violation of the national sovereignty of other states.

That is why the task of this court, as I see it, cannot be limited to the establishment of facts concerning the acts with which the Defendant Powers is being directly charged, and which he personally committed. Naturally, as in any criminal case, you, Comrade Judges, in strict accordance with the law must weigh all the available evidence thoroughly, exhaustively and objectively in order to establish the truth and find an answer to the question—what crime do the actions of the Defendant Powers constitute?

But the verdict in this case will have a bearing on more than just the personal fate of the Defendant Powers.

The verdict of the court, based on the evidence of the preliminary investigation and the trial, will again convincingly expose before the whole world the criminal aggressive policy of the United States ruling circles.

There is no doubt that your verdict will play its role in the struggle of the forces of peace against the forces of aggression, a struggle which is spreading increasingly throughout our planet and on whose outcome the future of mankind depends.

I. The Circumstances of the Case

Permit me now to go over to a statement of the factual circumstances of the case, to an analysis of the abundant evidence which, taken together, is not only proof of the crimes committed by the defendant Powers, but at the same time exposes the organizers and inspirers of these crimes.

The criminal acts committed by the Defendant Powers have been fully established by evidence that cannot be refuted or shaken.

The very fact that an American reconnaissance plane was shot down by Soviet rocket forces in the Sverdlovsk area on May 1, 1960, and the very presence of the American spy-pilot Powers here in the dock in Moscow, is convincing and irrefutable evidence.

The charges against the defendant in this case are fully substantiated by abundant objective evidence. The Defendant Powers himself realises this and does not therefore attempt to deny his guilt in respect of the crimes committed.

Comrade Judges, you are familiar with the depositions made by Powers during the preliminary investigation and the trial; when

explaining the notes on his route charts he described in detail the tasks assigned to him by the commander of espionage detachment 10-10, Colonel Shelton, of the United States Air Force, who indicated the points to which he was to pay special attention in order to obtain information about rocket bases and other Soviet defence installations of special importance.

It has been established that this detachment was based at the Incirlik air base in Turkey, and it was there that the Defendant Powers served as a spy.

The aggressive bandit flight on May 1, 1960 was the last in Powers' spy career which began way back in 1956 when he signed a secret contract with the U.S. Central Intelligence Agency in Washington, the capital of the United States of America, and sold himself to the American intelligence service for \$2,500 a month. It was explained to Powers that it would be his duty to make reconnaissance flights along the frontiers of the Soviet Union, and also to carry out other special assignments. It was precisely from that time that Powers became a staff spy pilot, ready to commit any crime to further the interests of the American military who are in the service of the monopoly capital.

You will remember, Comrade Judges, the statements made by the Defendant Powers during the preliminary investigation and during this trial concerning his training for flights in U-2 aircraft at the secret Las Vegas atomic range in a Nevada desert, and his training in the use of special reconnaissance equipment. This training was directed by Colonel Perry, who later became the chief of detachment 10-10, Colonel Perkins and Major Cords, while the training of the recruited spy pilots in the piloting of U-2 reconnaissance aircraft was done by representatives and flyers of the Lockheed Corporation, which built the planes, and also by army pilots.

Here is a graphic example of criminal collusion between a big American capitalist company, an espionage center and the United States military.

For purposes of secrecy, all the recruited pilots were given assumed names during training. Powers was known as Palmer.

In the fall of 1956, the personnel of espionage detachment 10-10 were transferred to the Incirlik American-Turkish air base near Adana in Turkey, where the formation of this detachment was

some airfields and if I wanted to I could put the places on my map. I wanted to do so and did mark some of them. There was also a place where he said I might see a missile launching site. I also put it down. There was one place that he said he thought there was something but he did not know what. I also put this down."
"I was to follow,"

Powers testified,

"the course of the route which was plotted on the map with red and blue pencils and to turn on and off the controls of the equipment over the points indicated on the map."

This is how Powers himself described the espionage assignments for collecting information on especially important defense and industrial installations of the Soviet Union which he received before the May 1 flight. But the instructions received by Powers and the means supplied to him to carry out the espionage assignment were not confined to that.

Further Powers testified:

"... the Colonel also said that just in case anything should happen, he was giving me some packages with Soviet money and gold coins. They were put into my flying suit pockets. He also had a silver dollar coin which he showed me which had a pin installed in it. He said that there was no danger because no USSR aircraft or rocket could get to my altitude but in case something should happen and I was captured, the pin contained poison and if I were tortured and could not stand it I could use the pin to kill myself."

Thus having bought Francis Powers with dollars, having made him an accomplice in its foul crimes, the American intelligence service considered in advance the possibility of the failure of its agent and, striving to avoid exposure, tried to convince him of the inevitability of suicide should he find himself alive on Soviet territory.

Here we have the bestial, misanthropic morality of Mr. Dulles and company which for the sake of that yellow devil, the dollar, disregards human life.

It should be mentioned that it was not only by supplying Powers

with such a pin that the American intelligence service intended to wipe out the traces of the crime.

It has been proved by the testimony of Powers, the material evidence and experts finding that the Lockheed U-2 aircraft in which Powers took off on his espionage flight was a special military reconnaissance plane and was equipped with a special device by means of which the pilot could blow it up in the event of a forced landing on the territory of the USSR. A blasting device was also fitted to the tape recorder designed to record the signals of Soviet radar stations.

When Powers received his final orders and instructions he took off from Peshawar airfield, rose to the altitude of 20,000 metres and, having flown across Afghanistan, intruded into the air space of the USSR.

Powers pleaded guilty to having flown over Soviet territory and points indicated to him for his flight, and to having switched on and off the corresponding controls of the special equipment installed in his plane. Altogether there were five such controls. The entire reconnaissance equipment on board the plane functioned normally and faultlessly. Moreover, during the flight Powers conducted visual observations and plotted the results on the route chart.

It is known that the plane piloted by Powers crossed the state frontier of the USSR at 05:36 a.m. Moscow time, south-east of Kirovabad, Tajik SSR, and from that moment until it was shot down by Soviet rocket forces in the Sverdlovsk area, was continually tracked by Soviet anti-aircraft units. The whole nature of Powers' flight shows its provocative and aggressive aims. The pilot kept his aircraft at an altitude of 20,000 metres, that is at an altitude at which no civilian aircraft ever fly; the route passed over big industrial centres and important Soviet defense installations.

In view of the fact that this was a case of the deliberate invasion of Soviet air space with hostile aggressive intent the Soviet Government gave orders to shoot down the plane and at 08:53 a.m. Powers' plane was shot down with a rocket at an altitude of 20,000 metres in the Sverdlovsk area, that is at a distance of more than 2,000 kilometres from the place it crossed the Soviet frontier.

Powers testified that while flying in the Sverdlovsk area at an altitude of 68,000 feet, that is, more than 20,000 metres, he saw an orange flash and after that his plane began to lose altitude.

During the flight he was pressed to the controls and could not use the catapulting device but raised the canopy, unfastened the straps and got out of the plane through the top. The parachute opened automatically.

Many people were direct eyewitnesses of the explosion at a great altitude after which the wreckage of the plane fell to earth and a parachute appeared in the sky.

Comrade Judges, those who took part in detaining the American spy have been interrogated in court and the testimony of these witnesses is still fresh in your memory.

These Soviet people, boundlessly devoted to their country, this time as always, displayed their vigilance and detained the spy-pilot Powers as he parachuted down, took away from him a noiseless pistol specially designed for foul murder and rendered the spy harmless.

It is also known from Powers' testimony that detachment 10-10 was inspected in April, 1960 by none other than the Chief of Staff of the United States Air Force, General Thomas D. White, in whose honour a special reception was given. Detachment 10-10 was twice inspected by the Commander of the United States Air Force in Europe, General Everett.

Incidentally not only high ranking officers of the United States Air Force but even certain Congressmen who, apparently, have special access to such espionage agencies, visited the 10-10 detachment at the Incirlik base.

Even Cardinal Spellman did not ignore the Incirlik air base and he also visited the 10-10 detachment.

What conclusion do I draw from an analysis of the above-mentioned data?

The material of this trial conclusively proves that notwithstanding all attempts by the American military to stage a kind of quick-change vaudeville with Allen Dulles as producer, the real nature of the 10-10 detachment in which Defendant Powers served, and of other similar detachments, is sufficiently clear. The purposes and aims of this detachment's activity made it nothing but a military intelligence body.

There is no shadow of doubt that Powers' plane was a military aircraft specially fitted out and sent into the air space of the U.S.S.R. for aggressive espionage purposes and that Powers, accord-

ing to the nature of his activity, continued to remain an army pilot discharging the duties of a military intelligence agent and spy. Powers himself admits that he was a civil pilot serving in the Air Force.

In fact this is nothing but an espionage hybrid—the offspring of the Central Intelligence Agency and the military intelligence of the U.S. Air Force covered by the NASA fig leaf.

The espionage purposes of Powers' flight over Soviet territory have been confirmed by all circumstances of the case, including the testimony of the defendant and considerable material evidence.

I must especially stress that the above-mentioned statements of leading U.S. government officials, statements in which they admitted to all the world that espionage and violation of the sovereignty of other states is the official policy of the United States, in the light of the criminal case of Powers now under consideration, assume procedural significance and play the role of judicial evidence. This evidence, that is the personal statements of the above-mentioned government leaders, establishes fully that the U.S. Government was the inspirer and organizer of the crimes committed by Defendant Powers and others of his ilk.

There is every reason to consider the aforesaid statements as indisputable evidence in the present case.

II. Material Evidence

Comrade Judges,

Fulfilling my duties of state prosecutor, I deem it necessary to speak about the numerous items of material evidence in this case.

As a result of the examination of this material evidence, its careful study by experts in most diverse fields, the state prosecution is in possession of objective, irrefutable data, proving with new force the indictment preferred against Defendant Powers, and the deliberate, aggressive nature and espionage purpose of his criminal mission.

The material evidence was exhibited in public; 320,000 Soviet people and over 20,000 foreigners were able to see for themselves these clear proofs that expose the aggressive policy of the U.S. ruling circles which organized Powers' bandit flight.

Parts and assemblies of the plane were found scattered over

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an area of some 20 square kilometers where the Lockheed U-2 aircraft fell; they included: the forepart of the fuselage with the central wing and the flier's cockpit with its equipment; a turbojet engine; the tail of the fuselage with the keel, etc. These fragments and assemblies were parts of a one-seater high-altitude subsonic intelligence plane of the U-2 type built by the American Lockheed Company.

Investigation of individual parts and units has shown that numerous U.S. companies took part in the building of the U-2 spy-plane and that certain parts and equipment are the property of the U.S. Government.

The plane's turbojet engine was manufactured by Pratt-Whitney, as is shown by the firm's trade mark. The radio-reconnaissance equipment was manufactured by Hewlett-Packard and the Huggins Labs (Menlo Park, California). This equipment and certain other units have markings showing that they belong to the U.S. Defense Department.

This is especially important as refutation of the false claim that the U-2 plane was a civilian and not a military aircraft.

The instrumentation, communications, electrical and radar equipment, are also manufactured by different American companies, which is confirmed by the respective trade-marks and labels.

The plane has a special remote-controlled destructor unit manufactured by Beckman and Whitley Inc. (Model 175-10A).

Investigation of the special charts, films and other materials, as well as the conclusions of experts, testify to the fact that the U-2 aircraft made a deliberate espionage reconnaissance flight that had been prepared beforehand.

This is confirmed by the discovery of a specially coded chart with the route of the plane's flight from the Pakistan area (Peshawar Airport) in a north-westerly direction, over the Tajik, Uzbek, and Kazakh Union Republics, the South Urals to Sverdlovsk with a turn towards Kirov, and then a turn in the White Sea area, crossing the eastern part of the Kola Peninsula and along its northern coast-line into Norwegian territory.

Analysis of the flight chart shows that from Peshawar Airport to the Sverdlovsk area the plane flew according to the plotted course. This is confirmed by the photographs of stretches of the territory flown over, the course plotted, and the actual position of

Speech for the Prosecution

the plane with an indication of the time made by hand in red and blue pencil on the flight chart. There are also marks made beforehand on the chart with regard to switching the main assemblies and apparatus of the aircraft on and off during the flight over Soviet territory.

The material evidence establishes irrefutably that the flight of the American plane over Soviet territory was deliberate and planned in advance. The conclusions of the experts show that the chart with the route of the flight and navigation calculations was prepared on the ground before the take-off. While airborne, the pilot knew his position, systematically checked the flight over the landmarks indicated on the chart and kept strictly to the predetermined route. During his flight over the territory of the Soviet Union the pilot plotted on the map information of a reconnaissance nature.

Of special interest as evidence proving the espionage purpose of the U-2 flight is the aircraft's photo-equipment and the results of the photoreconnaissance carried out by the Defendant Powers during his flight over Soviet territory.

Technical experts established that the aerial camera model 73-B installed on the U-2 aircraft is a special reconnaissance camera designed for photographing strips of terrain from the air at high altitudes.

The aerial film used in the aerial camera is a special type of photographic material, designed for the aerial reconnaissance of military and topographical objects while flying at high altitudes. The pilot photographed the territory of the Soviet Union for the purpose of espionage.

Examination of the developed aerial film and orientation of the prints made it possible to establish that the territory photographed was that of the Soviet Union.

The aerial photographs contain intelligence information on USSR industrial and military installations.

The experts examined the tape recorder with a ferromagnetic tape and the optical instrument found in the area of the fall of the plane which were in their turn important material evidence of the espionage purposes of the U-2 flight.

An examination of the tape recorder established that it had a special demolition device designed for its destruction. Expert examination of a part of the magnetic tape was in

perfectly good condition. On decoding the tape it was established that the signals recorded belonged to ground radar stations of the radar anti-aircraft defence system of the Soviet Union.

The tape recorder was part of the radio-technical intelligence equipment mounted on the U-2 aircraft.

The experts established that the U-2 aircraft was fitted with special counter radar equipment designed to jam radar stations for interception and guidance of fighter planes.

Beyond doubt equipment of such kind is installed on enemy planes that intrude into the territory of another country for aggressive purposes.

Experts examined the combined receiver and transmitter found on the plane which represents an American serial built command station designed for short range air-to-ground and air-to-air communications.

The absence of equipment for long-range radio communication on the U-2 aircraft is further evidence that the organizers of the aggressive incursion took measures to conceal the piratical flight of the U-2 aircraft and prevent its possible detection over the territory of the USSR.

Comrade Judges, I have already mentioned that the U-2 aircraft was equipped with a special demolition device ensuring the destruction of the plane in the event of a forced landing on U.S.S.R. territory.

It has been established by examination that the remote control of the destructor unit was installed in the cockpit. The electrical control panel, among other inscriptions, has one reading "explosion." The pilot was therefore fully aware of the existence of a special demolition device on his aircraft and of the methods of operating it.

The destruction unit found among the wreckage of the U-2 aircraft represents important material evidence of the aggressive espionage purposes of the flight.

I have already mentioned in my speech the poison pin which was found on the Defendant Powers.

If the assignments received by Powers had not been of a criminal nature, his masters would not have supplied him with a lethal pin.

Inspection and forensic-toxicological examination of the pin taken from the Defendant Powers established that the pin was

smearred with a substance which, judging by its action upon animals, toxic doses, and physical properties belongs to the curare group—the most potent and fast acting of all known poisons.

Considering its extremely high toxicity, the experts' conclusion was that a prick of this pin would kill a person instantaneously.

It has been established by the examination of the noiseless pistol taken from Powers that it is a semi-automatic tenshot pistol of the latest model designed to shoot at moving targets. Along with the pistol there were found 205 cartridges for it.

Comrade Judges, analyzing all these data I have arrived at the conclusion that this case offers a combination of material evidence—these mute witnesses—which irrefutably and objectively establishes to the full the crimes committed by the Defendant Powers, completely exposes the inspirers and organizers of these crimes and provides justice with incriminating evidence of great convicting force.

III. An Act of Aggression Against the Soviet Union

Comrade Judges, in assessing the gravity of the crimes committed by Powers we cannot forget even for a minute that he personally carried out such especially dangerous criminal assignments which directly endangered universal peace and might have brought a terrible disaster upon humanity.

The aggressive premeditated nature of the flight of the plane piloted by Powers was perfectly obvious from the very moment he crossed the border of the Soviet Union and intruded into the depth of Soviet territory, flying at a tremendous altitude over important defence and industrial installations. Naturally, from the earth no one could tell whether or not this hostile plane, which unceremoniously and arrogantly intruded into Soviet air space, was carrying a deadly load. It is, therefore, absolutely obvious that under present circumstances, when certain states possess nuclear weapons and means of delivering them to targets at almost lightning speed, the aggressive act undertaken by the United States of America on May 1, 1960, against the Soviet Union may be classed as a crime that endangers the security of all mankind and could have had the gravest of consequences to all the world.

The present case exposes the criminal flight of universally condemned standards of international law by American ruling cir-

cles. In this connection it seems to me that it is necessary to consider in the speech for the prosecution some points of international law which directly bear on the crimes committed by the Defendant Powers and his masters.

An indisputable principle of international law, never challenged by anyone, is the principle of full and exclusive sovereignty of a state over its territory, including the entire air space above it. This principle is embodied in a number of international conventions and in the national legislation of nearly all states, including the United States of America and the Soviet Union.

The Soviet Government has repeatedly protested against unlawful violations of Soviet air space by American aircraft and warned the United States Government of its responsibility for the very grave consequences that might arise out of such violations.

The United States Government, however, did not react to these protests and, true to itself, continued its policy of cold war and of the gross violation of the sovereignty of other states.

It is known that the Soviet Government protested against the violation of the air space of the USSR by American military aircraft in its note of July 10, 1956, addressed to the U.S. Government. In a letter of July 12, of the same year, the permanent Soviet representative at the United Nations informed the Security Council of these facts.

In its reply note of July 19, 1956, the United States Government hypocritically denied the facts of violation of the air space of the USSR by American military aircraft and claimed that the statement of the Soviet Government was erroneous.

The United States leaders adopted a similar double-faced attitude in all such cases until, on May 1, 1960, they were caught in the act and had to admit to criminal intrusions into Soviet air space which up to then they had brazenly denied.

In his appraisal of the criminal aggressive incursion by the American U-2 aircraft into the USSR, N. S. Khrushchev stated with full justification:

"Unheard-of and unprecedented are the actions directed against the sovereignty of the Soviet state, while the principle of sovereignty is a sacred and immutable principle of international relations."

This principle was embodied in the convention for the regula-

tion of aerial navigation signed in Paris on October 13, 1919.

Article 1 of that convention reads:

"Every power has complete and exclusive sovereignty over the air space above its territory."

This principle is reaffirmed in the International (Pan-American) Convention on Air Commerce signed in Havana on February 20, 1928, in the Convention on International Civil Aviation signed at Chicago on December 7, 1944, and in a number of bilateral agreements between states.

The above formula has been fully incorporated in the national legislation of practically all states.

In particular, clause 176 of the Air Commerce Act of the United States Congress of 1926, establishes that the United States of America possesses and exercises full and exclusive sovereignty over the air space above the United States.

The same principle is established by the United States Civil Aeronautics Act of 1938.

Article 1 of the Air Code of the USSR of 1935 establishes that "the USSR exercises complete and exclusive sovereignty over the air space of the USSR."

It is common knowledge, however, that this is not the first time that international law has been dealt with unceremoniously in the United States of America. American theoreticians have even established a special concept of "American international law." C. Hyde, an American authority on international law chose this title for his capital work, "International Law, chiefly as interpreted and applied by the United States." (Publishers of Foreign Literature, Moscow, 1951).

However, the principle of complete and exclusive sovereignty of a state over the air space above its territory is so unquestionable that it was unconditionally recognised even by "American international law."

This is what the aforementioned Hyde wrote, summing up the results of examination of all conventions and laws pertaining to this question: "The evidence is abundant that states have reached a degree of unanimity in their assertion of the right of control over the air space above their territories which suffices to warrant the conclusion that that right is to be regarded as exemplifying a principle of international law." (Hyde, *International Law*, 191 C, page 366.)

American Senator Fulbright declared in this connection: "The Head of State embodies in his person the sovereignty and dignity of his country. It is totally unacceptable for one Head of States to impinge upon the sovereignty of another, and much less so for him to assert the right to do so."

Any other solution to this problem is unthinkable. To any reasonable person, and not only to specialists in international law, it is clear that the principle of the national sovereignty and supremacy of a state over the air space above its territory, in the same way as the principle of national sovereignty in general, is the foundation of normal relations between states in time of peace. This evokes no doubt.

It is interesting to note also how the science of international law solves the questions of the conduct of guilty states in cases similar to the aggressive invasion by the U-2 aircraft.

British Professor L. Oppenheim, in his treatise on international law (Publishers of Foreign Literature, Moscow, 1948), points out in this connection that in the event of administrative officials, or the military or naval forces of a state permit internationally injurious acts, "a state has, first of all, to disown and disapprove of such acts by expressing its regret or even apologising to the government of the injured state; secondly, damages must be paid where required; and, lastly, the offenders must be punished according to the merits of the special case" (pages 332-333).

It goes without saying, however, that anyone who elevates crime to the level of calculated state policy, deliberately takes the risk of being caught in the act, recognises the "positions of strength" policy as the supreme principle of state policy that person will without compunction disregard the universally accepted international practices as embodied in the high principles of international law, and substitute lawlessness and arbitrariness for law and right.

In its note to the United States Government of May 16, 1960, the Soviet Government stated with the utmost clarity that the unscrupulous violation of the frontiers of another state, be it on land, water, or in the air, can be regarded as nothing other than an act of aggression, and that an attempt to vindicate and "legalize" such acts constitute nothing but the preaching of aggression, a policy that disregards the elementary standards of international law and order and the principles of

The unlawful incursions of American military planes into the air space of the USSR planned by the American intelligence service by order of the United States Government, and specifically the incursion of the Lockheed U-2 aircraft piloted by Powers on May 1 of this year not only constituted criminal violation of the sovereignty of the USSR but were also acts of aggression. These bandit acts reflect the established United States policy of "balancing on the brink of war" pursued for many years by former State Secretary John Foster Dulles and kept tirelessly at boiling point by Pentagon warmongers.

In his book "War or Peace?" Dulles wrote:

"If at any time in the near future it seems that the danger of war has passed, that will be a period of greatest peril." (American Edition, 1950, page 267.)

Dulles's conception is apparently still the foundation of United States foreign policy.

It seems to me that it is essential to consider whether the incursion by even a single plane into the air space of another country constitutes an act of aggression. There is every ground for the conclusion that an incursion by a foreign plane, such as that of the U-2 spy plane, unquestionably constitutes an act of aggression.

Beyond doubt in modern conditions the invasion of the air space of any state, even by a single plane, is fraught with disastrous consequences.

The experience of World War II shows that flights by reconnaissance planes usually preceded air attacks. But if this was so during World War II, in present-day conditions the appearance of such scouts is fraught with a much greater danger.

It is well known—responsible military leaders of the United States have on more than one occasion announced this for all to hear—that the United States of America is constantly keeping in the air patrol bomber squadrons carrying a load of atomic and hydrogen bombs.

Thus the appearance even of a single reconnaissance plane over Soviet territory can always be the forerunner of an attack from the air. But even if squadrons of bombers do not follow right after the reconnaissance plane, the flight of a single plane, the aerial photo-reconnaissance and the reconnoitering of the anti-aircraft radar

installations of the USSR constitute the component elements of air attack.

The American **Des Moines Register** wrote with perfect justice:

"Let us assume that the man in charge of the Russian air detection system had interpreted pilot Powers' flight as an attack and had pushed the button for a retaliatory blow . . . in a few hours time those who survived would have found themselves in hell. When will we at last realize that espionage, counterespionage and all such idiotism belong to the dead past."

Leading U.S. statesmen are prone to use their allegedly peaceable intentions as a cover for their criminal aggressive acts.

But everybody knows what the sincerity of such statements amounts to. The road to hell, we know, is paved with such "good intentions."

The words pronounced by President Eisenhower at the final meeting of the Conference of Heads of Government of the Four Powers in Geneva five years ago, on July 23, 1955, now sound like blasphemy.

He said then:

"I came to Geneva because I believe mankind longs for freedom from war and rumours of war. I came here because of my lasting faith in the decent instincts and good sense of the people who populate this world of ours. I shall return home with these convictions unshaken, and with the prayer that the hope of mankind will one day be realized."

These solemn words were pronounced at a time when President Eisenhower's administration, from the very beginning of its activities, was implementing the program of military espionage and criminal violation of the sovereignty of other states approved by him.

Comrade Judges,

The statements of the President, Vice-President and Secretary of State of the United States of America which I have mentioned, stressed that the U-2 flight on May 1 of this year and other cases of the incursion of American planes into the air space of the USSR which took place earlier, had no aggressive aims but represented defensive measures.

American aggressors, these newly-baked imitators of Hitler, have attempted to vindicate their provocative policy by alleging that they were conducting it for the purpose of averting the so-called "danger of the Communist menace." But this argument, if such it may be called, is not new; it bears a striking resemblance to that used by the Hitlerites and Japanese militarists.

It is well known that at the Tokyo trial, Japanese war criminals attempted to justify their aggressive actions as defensive measures. The International Military Tribunal in Tokyo which tried the chief Japanese war criminals said in its sentence that ". . . the leaders of Japan have always tried to justify their aggressive military ventures by calling them defensive." (International Trial of Chief Japanese War Criminals, Publishing House of the USSR Academy of Sciences, 1950, p.236.)

It is well known that the attempts of Hitlerites to justify their aggressive policy against the U.S.S.R. by the "danger of a communist menace" were fully exposed by the International Military Tribunal in Nuremberg.

U.S. prosecutor Jackson stated in his final speech at the trial of the chief German war criminals:

"Some of the defendants say that the wars were not aggressive and their purpose was to protect Germany against a new possible danger—the communist menace' which with many Nazis was a kind of *idée fixe*. 'This argument of self defense collapses right from the start . . ." (Materials of the Nuremberg Trial, vol. 2, p.112, Russ. ed.)

U.S. statesmen now seek to revive the *idée fixe* of a "communist menace" which has been refuted by many years of history and proved an utter failure.

Comrade Judges, I deem it necessary to dwell on another important question which is of interest from the viewpoint of international criminal law.

The Powers case which you are examining contains a peculiar case of international complicity. As has been established at the preliminary and court investigation, the aggressive spy flights by American planes over Soviet territory, especially Powers' flight in the U-2 aircraft could not have taken place if states contiguous to the Soviet Union, in this case, Denmark, Sweden, Finland and Norway, had

not made their territory available to the American military.

The flying range of the U-2 would not have allowed it to operate directly from United States territory. This plane, like the entire 10-10 espionage detachment, was stationed at the Incirlik airbase in Turkey. Powers' plane took off on its piratical flight from the Peshawar base in Pakistan. He was to have completed his flight and landed at the Norwegian Bodoe base.

The defendant Powers testified that when U-2 planes made intelligence flights along the Soviet frontiers, Meshed and Teheran (Iran) were indicated as reserve airfields. On his May 1 flight Powers could use as reserve any airfield in Norway, Pakistan and Iran. He could also land at the Sodankyla airfield (Finland). However, Colonel Shelton warned him that this was a poor airfield and should be used only in case of utmost necessity but it would at any rate be better than landing somewhere in Soviet territory. Shelton added that it would be better to land in Sweden or in Norway, but preferably in Norway.

If all these circumstances are assessed in conformity with the theory of complicity, those who organized and inspired this crime and also those who are accomplices obviously facilitated the commission of the crime by making available means and removing obstacles should be regarded as accomplices in Powers' crime.

The Soviet Government has more than once warned the governments of countries linked with the United States by military bases of the danger the installation of U.S. military bases on their territory creates for those countries.

This trial graphically shows how well founded were the Soviet Government's warnings.

This trial reveals completely the aggressive, misanthropic policy of U.S. ruling circles and military who, in pursuance of their foul aims, do not hesitate to flout the sacred principles of international law in order to continue their dangerous "balancing on the brink of war."

But the peace-loving people throughout the world now know no more acute and pressing problem than that of maintaining peace on earth and averting the threat of another disastrous war.

The balance of forces in the world today is such that the champions of peace, all people of good will, all peace-loving mankind, can curb the aggressors and in a united effort give a powerful rebuff to the sinister forces of aggression.

IV. Juridical Qualifications of the Crime

Comrade Judges, I am now passing over to a juridical assessment of the acts incriminated to the Defendant Powers.

According to the indictment the Defendant Powers, having been recruited by the U.S. Central Intelligence Agency in 1956, is accused of intensive espionage activity against the Soviet Union, which is an expression of the aggressive policy pursued by the U.S. Government.

On May 1, 1960, he, Powers, invaded the air space of the USSR in a specially equipped Lockheed U-2 reconnaissance aircraft with the knowledge of the United States Government and under instructions from the American intelligence service which is implementing the aforementioned aggressive policy, with a view to gathering strategic information on the location of missile bases, airfields, radar facilities, and other important Soviet defense and industrial installations, that is, information which represents the state and military secret of the Soviet Union.

Having flown over 2000 kilometers deep into the Soviet Union, he photographed with special equipment a number of the above-mentioned installations, tape recorded the signals of radar stations and collected other information of espionage character.

The crime acts of the Defendant Powers come under Article 2 of the Law of the Soviet Union "On Criminal Responsibility for State Crimes."

Each point in the formulation of the indictment has been fully established by all the evidence available in the case.

According to Article 2 of the aforesaid law, espionage is qualified as "the appropriation or collection of information which represents a state or military secret with the object of handing over to a foreign state, a foreign intelligence service, or their agents, and also the transmission or collection of other information on the assignment of a foreign intelligence service to be used to the detriment of the interests of the USSR."

As State Prosecutor I have no doubt whatever that all attributes of this crime are present in the actions of the Defendant Powers. The fact of the appropriation or collection of information which represents state or military secret by Powers has been irrefutably established. There is no need to dwell specifically on whether the information on Soviet military and industrial establishments, air-

fields, radar facilities, etc., which Powers collected during his aggressive flight over the territory of the USSR on May 1 of this year represents a state or military secret. Such information in every country is regarded as a specially guarded state and military secret.

Nor is there any doubt that Powers collected this information with the object of handing it over to a foreign state, for all these circumstances have been established with exhaustive fullness and clarity at the preliminary and the court investigation and the Defendant Powers himself does not deny that he collected this information in accordance with a direct assignment of the American intelligence service which was acting in conformity with the programme sanctioned by the United States Government.

Another element of the crime envisaged by Article 2 of the aforementioned law is also present, that is, the commission of the crime by a foreign subject.

It has been fully proved that from the viewpoint of the criminal legislation of the Soviet Union Powers is guilty of espionage. But I should like to emphasize that under United States legislation the actions of the Defendant Powers, had they been committed in the United States of America and directed against the United States, would also have been regarded as espionage and entailed severe punishment.

I am referring to the United States Code issued in 1958 (published in Washington in 1959; Vol. 4, Sect. 18, Chap. 37, headed "Espionage and Censorship").

United States legislation envisages that criminal responsibility for espionage is borne by any person who enters, penetrates, flies over or by any other means obtains defense information which might be used to the prejudice of the United States or to the benefit of any other power.

This legislation established a long list of espionage objectives. Among them there are, for instance, docks, canals, railway lines, factories, mines, buildings, institutions, scientific research laboratories, and so on and so forth. As espionage objectives are listed any sketches, photos, photo negatives, drawing, plans, maps, models, records or notices about anything connected with national defense.

That is how scrupulously United States legislation envisages criminal responsibility for the slightest encroachment on the security of its country. Establishing such strict procedure in their

own country, why do United States ruling circles not want to consider the procedure established by other states, why do they deliberately and unceremoniously undertake the crude violation of laws issued by other states with the object of ensuring their security?

The Defendant Powers perpetrated a grave crime against our country and he must be condemned with the full rigour of the law of the Soviet state, as he would be in any other country.

Comrade Judges, to conclude my speech for the prosecution, I must return once more to the question of those most grave consequences for peace and mankind, which Powers' criminal actions might have resulted in. At the time when Powers' plane crossed the state frontier of the USSR and intruded into the air space over our territory, nobody could have known what further aggressive actions it was the harbinger of, and what lethal load it carried.

The Defendant Powers, whose crimes the American intelligence service paid for so generously, is not an ordinary spy, but a specially and carefully trained criminal. All Powers' actions show that he is by no means a weak-willed and blind tool, a robot in the hands of the American Intelligence Agency and the Pentagon, whom they used for espionage, subversive activities and aggression. He is a dangerous criminal. He cannot plead compulsory fulfillment of an order for, having voluntarily sold his honour and his conscience, the whole of himself, for dollars, he undertook to carry out any criminal acts, that is, he acted from mercenary and base motives. He did not commit his crimes merely by a method which, as the law says when defining circumstances aggravating responsibility, was to the common danger, but by a method fraught with danger for millions and millions of people. He consciously committed a crime with consequences of a gravity which cannot be measured by the scale which we are accustomed to apply in determining the gravity of a crime.

Such is the true face of the Defendant Powers. And had his masters tried to unleash a new world war, it is precisely these Powers, reared and bred by them in the conditions of the so-called free world, who would have been ready to be the first to drop atom and hydrogen bombs on the peaceful earth, as similar Powers did when they threw the first atom bombs on the peaceful citizens of the defenseless cities of Hiroshima and Nagasaki.

Comrade Judges, the aggressive intentions of the Defendant Powers are obvious to all. By orders

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Comrade Judges, perhaps to satisfy my request and deviate from the demand voiced here by the State Prosecutor with regard to my Defendant Powers.

Therefore, I begin with the hope that you will consider my arguments and take them into account in passing the sentence.

Comrade Judges,

At the preliminary investigation and later at the judicial investigation the Accused Powers fully pleaded guilty to the charges preferred against him.

That is why I deem it necessary first of all to declare that the defense challenges neither facts of the charges preferred against Powers nor the assessment of the crime given by the State Prosecutor.

Thanks to Powers' confession, a confession, moreover, corroborated by objective evidence in this case, it is beyond doubt that the man in the dock is indeed guilty of the crime and that the crime itself has been committed as set forth in the indictment.

And if you only had to establish the link between the crime and the criminal, your task would have been accomplished and you might have already regarded your work as completed.

However, it is your duty not only to establish the fact of the crime and the substantiation of the charges preferred against the defendant, but also to ascertain all the circumstances attending this crime.

That is why, investigating the case, you did not confine yourselves to ascertaining the facts only, but most thoroughly and objectively established the circumstances attending Powers' crime, studied the motives which guided him, and in doing so took a profound interest in his past and did everything to understand Powers' attitude to the crime he committed and his role in this crime.

You did so in full conformity with our, Soviet, law which obligates you, in determining the measure of punishment, to take into consideration all the circumstances of the case, the personality of the defendant and, of course, his testimony at the trial.

From this it follows, above all, that in deciding the fate of Powers it will be important to what extent you will be convinced of the truthfulness of his testimony.

There is not the slightest doubt that such a competent judicial

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body as you are has more than enough experience and wisdom to distinguish between truth and falsehood.

That is why I can expect with full confidence that you will accept the testimony of Powers you have heard here as truthful.

Comrade Judges,

The public significance of this case is quite obvious. Hence it is not accidental that it has drawn attention both inside our country and far beyond its bounds.

I shall be right if I say that the Powers case is of international importance, inasmuch as besides Powers, one of the perpetrators of a perfidious and aggressive act against the Soviet Union, there should sit and invisibly be present here, in the prisoner's dock, his masters, namely, the Central Intelligence Agency headed by Allen Dulles and the American military and with them all those sinister aggressive forces which strive to unleash another world war.

Therefore, as the defense counsel for Powers, I urge you, Comrade Judges, to pay attention to this circumstance which, I feel confident, will be of substantial importance in determining the punishment of Powers.

The clumsy attempts of the United States leaders to vindicate the unprecedented provocation they staged against the Soviet Union are still fresh in our mind.

Everyone remembers how different versions one after another were launched by U.S. ruling circles and were immediately blasted by the facts.

As you know, the U.S. Government at first published a version alleging that the U-2 plane was studying the upper layers of the atmosphere and later on, caught red-handed, declared that air espionage against the Soviet Union was its calculated policy.

Speaking in the Senate Foreign Relations Committee, Secretary of State Herter described the statement issued by his department as a cover story prompted allegedly only by the humane desire, a desire above all to protect the pilot, that is Powers. In this case too the U.S. Secretary of State did not speak the truth, since neither he nor his colleagues in the Eisenhower-Nixon Administration thought of protecting Powers, but, on the contrary, were very displeased that he had not carried out the suicide

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Yet, the materials of the preliminary investigation and the judicial investigation have irrefutably established that the plane piloted by Powers intruded into the air space of the Soviet Union on orders from the American authorities who had instructions from the U.S. Government to effect the intrusion or, as the statement by Secretary of State Herter says, to penetrate into the boundaries of other countries.

In the given case the point is that the U.S. Government has proclaimed systematic espionage intrusions into the bounds of the Soviet Union an integral part of its national policy, in fact laying claims to some exceptional rights both with regard to the Soviet Union and other states.

And, as has been learned from the explanations made by the U.S. Secretary of States, the Eisenhower-Nixon Administration has been pursuing such a policy from the very beginning of its term of office.

In carrying out this policy, the ruling monopoly circles of America do not even stop at committing such actions which directly endanger universal peace, which are taken only when nations are at war.

What I have said gives the defense the right to assert with complete confidence that the appearance of Powers over Soviet territory was not a manifestation of his own will but was predetermined by the will of the aggressive circles behind him, specifically the Central Intelligence Agency of the United States headed by Allen Dulles, in the system of which Powers was a small pawn.

In other words, though Powers was the direct perpetrator, he is not the main culprit, notwithstanding the fact that the case heard today is associated with his name.

In this connection it is unfortunate that Powers alone is in the dock. If those who sent him to commit this crime were alongside him, there is no doubt that the position of my client Powers would be different and he would then hold a secondary place and consequently could undoubtedly expect a considerable mitigation of punishment.

It goes without saying that I do not absolve Powers from responsibility in arguing this way, but I want to emphasize and draw your attention to the fact that he committed this crime not of his own volition and reasoning, but on orders from above, on orders

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from his masters; moreover, he was not connected with any of them, except his direct superior, Colonel Shelton, and was not even informed by them about the plans they harboured sending him to commit this crime. More than that they deliberately misled him, assuring him that the flight over Soviet territory was absolutely safe and did not involve any risk. Thus, Defendant Powers testified: "I was warned that the Soviet Union does not possess the means to hit my plane."

However, life corrected these assurances given by Colonel Shelton and others and Powers, having run a deadly risk, thanks to the vigilance of a unit of the Soviet rocket forces, is now faced with a need to answer for his actions to a Soviet court of justice.

This to a certain extent lays emphasis on the place Powers held among those who are really guilty of the crime and who, in all fairness, should bear their punishment in full measure.

On this score Powers himself testified:

"My task was to carry out orders given to me . . . I felt well though I was a bit nervous because I did not enjoy the flight, but I was carrying out the assignment of my bosses."

Comrade Judges,

Powers has testified that before taking off, the orders he received from the commander of the 10-10 detachment Colonel Shelton were that in the event of a forced landing, or if he had to bail out he was to destroy the plane with all the equipment by pressing two levers and that in the case of captivity and ill treatment Powers was to commit suicide.

This order shows how carefully the Central Intelligence Agency of the United States guarded the secret of the Lockheed U-2 aircraft and its equipment. Moreover, this shows the extent to which Powers' bosses feared his testimony to which you listened so attentively at this trial.

Yet, when the plane was shot down, instead of destroying it, Powers bailed out and upon reaching the ground, instead of killing himself with the poison pin solicitously given to him by the self same Colonel Shelton, remained alive and gave testimony.

There can be different explanations of Powers' behaviour in this case, but one thing is indisputable, namely, that all this to a certain extent is a lie intended to conceal the truth about the shot-down plane

and at the same time once again most strikingly exposed the aggressive and perfidious foreign policy of the United States carefully disguised by hypocritical phrases about peace and defense of the so-called "free world."

The defense is convinced that in determining the punishment for Powers you will have to take into account this breach of Colonel Shelton's order on his part.

Comrade Judges,

Deciding on the punishment for Powers, you cannot but take into account the testimony given by Powers both at the preliminary investigation stage, and at the trial.

Concerning his testimony Powers says:

"I do all my best to be honest . . ."

"I wish to be frank."

And this cannot be denied him because his behaviour during the interrogations shows that the explanations he has given are not just phrases, not an attempt to mislead the investigating bodies and the court, but are truthful and sincere.

I do not know whether Powers has told the whole truth, but what he has told is the truth.

Is it not a fact that everything that constitutes the substance and subject of his guilt, of the guilt of his masters, was reflected by Powers himself in his testimony given with all details which, I repeat, leave no room for doubt concerning the truthfulness and sincerity of this testimony.

It is a fact that the divulgence of state secrets in the United States is punishable by ten years imprisonment, or a fine of \$10,000 or both.

This notwithstanding, Powers gave truthful testimony and thus entered into a sharp conflict with his employer.

It is not accidental that in testimony given at the preliminary investigation defendant Powers said:

"I know that I shall be tried in your court, but if I happen to return home I shall be tried there as well.

But this worries me little because I am not likely to return home."

Who can tell, perhaps all this, the testimony written in his own hand and the testimony he had repeatedly given voluntarily to the investigator, are the result of the internal change which starts when

he, although not of his own free will came in contact with Soviet people and realized that much of what he had been told in America about the Soviet Union and the Soviet people was in sharp contradiction with reality.

Testifying on this score, Defendant Powers said:

"I was deceived by my bosses. I never expected to find such a good treatment here."

If in some cases the testimony of Powers is reserved and if sometimes he is not too talkative, this is explained, Comrade Judges, by the fact that to this day he is still held captive by those forces who sent him to commit this crime. Moreover, he realizes perfectly well what are the ethical standards, if any, of the Central Intelligence Agency of the United States. I believe I need not continue to expound my considerations concerning the motives underlying the behaviour of Powers after his detention.

Under all circumstances, proceeding from Article 33 of the Fundamental Principles of the Criminal Law of the USSR, such testimony and such behaviour of the defendant constitute circumstances mitigating his responsibility and, as a rule, they serve as grounds for a more lenient attitude towards him, grave as his crime may appear.

Comrade Judges,

To get a right idea of the ways which have led Powers to the Central Intelligence Agency of the United States and made him a tool of the aggressive policy of the Eisenhower-Nixon-Herter Administration, it is necessary to cast at least a cursory glance at the life path of Powers.

As you know, Powers was born in 1929 in Burdine, Kentucky, and comes from a family of working people.

His father worked a considerable part of his life in the pits as a miner. Then, after having been injured on the job, he had to give up work in the mines and became a shoemaker, opening up for this purpose a small shop, in which he employed no hired labour. In fact, the shop was the sole means of livelihood for the large Powers family. The small farm which the defendant's father had inherited did not produce for the market and merely satisfied the needs of the family. Though he lacked sufficient means, Powers' father sought to give his son a higher education and wanted him to be a doctor.

But Francis Powers himself did not go to school because,

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His main aim in life is to have a good job for which he would be paid many dollars. In his testimony of May 31, 1960, Powers said on this point: "I wanted money to have good life. I wanted to buy a good home and if possible to start a business of some kind . . . I would like to own a servicing and filling station."

As a result, in 1956 when it was proposed that he quit the Air Force and take a job as a pilot in the Central Intelligence Agency of the United States and promised a much bigger salary than in the Air Force, that is, \$2,500 monthly instead of the \$700 he was getting, he willingly, without hesitation, accepted the offer and signed a contract.

Here is what Powers himself said on this point: "This was a good job with good pay and I did not consider this job dangerous, that is at least until May 1. As a result, from the material viewpoint I lived well, my wife and I had anything we wanted and at the same time were able to make savings.

And so, all this enabled Powers to save about \$15,000 for the purchase of a house and, moreover, to accumulate about \$30,000 under the contract terms.

Here is the reason which brought Powers into the dock. Consequently, it was not ideological motives or ill will that have led Powers to this perfidious, aggressive act, but the "business" ethics in which he was brought up.

Influenced by these ethics, Powers lived under the delusion that money does not stink and did not realize that the \$2,500 he received from the Central Intelligence Agency did have a most foul stench, though he had some doubts the last time he was prolonging his contract with the Central Intelligence Agency.

On this point Defendant Powers testified: "When I last extended it I had some hesitations, and at present I regret that I extended it. Other pilots had probably more sense and they left after their contract term had expired."

The defense hopes that everything that happened to Powers made him understand correctly the nature of the money he was getting under the contract, and this lesson no doubt, will be a guarantee of his upright behaviour in the future.

Comrade Judges,

In his testimony of May 3, 1960, Defendant Powers said: "I do not know Soviet laws. Perhaps despite my evidence and my behaviour I am to be sentenced to death under your laws."

Speech for the Defense

In this connection it must be stressed that Soviet criminal law does not recognize such a formal approach in passing a sentence upon a person who has committed even a grave crime.

The Soviet court is a humane court in which the motives of formal demands of the law are not the sole and primary motive.

In passing a sentence our court has never been guided by considerations of cruelty and revenge.

One could cite a whole number of court sentences vividly reflecting the humaneness of the Soviet court, but this is hardly necessary because they are widely known not only in our country, but also far beyond its borders. In deciding the fate of a defendant, the Soviet court invariably proceeds not only from the circumstances of the case, but takes into account the defendant's personality and circumstances mitigating his guilt.

In this case the circumstances mitigating Powers' guilt are, as I said before, his truthful and sincere testimony. But I would not discharge to the end my duty as a Soviet lawyer if I did not set forth to the court my considerations concerning other circumstances which, it is my deep conviction, can be considered as mitigating circumstances.

First of all I would like to draw the court's attention to the age of the defendant.

Powers is still young, he just turned 31.

I feel in duty bound to remind the court that Powers, while signing the contract with the Central Intelligence Agency of the United States did not know the real purpose of the task set before him.

Nor should one disregard the doubts that have arisen in Powers' mind as to whether his previous actions in the Central Intelligence Agency of the United States were correct.

It seems to me, therefore, that there is every ground to recognize the existence of mitigating circumstances and to adopt a less severe measure of punishment.

Comrade Judges,

Our country is strong and powerful as never before and no warmongers, American or some others, or all of them together, can intimidate us and make us bow to them.

The brazen provocation of the American military, as you know, has not changed the foreign policy of the Soviet Government, and

the Soviet Union, as hitherto, is urging all upright people to pool their efforts in the struggle for peace and against the intrigues of the aggressors.

The American aggressors did not succeed in deceiving the peoples and their actions in sending the U-2 spy plane into the air space of the Soviet Union are regarded as a provocation by representatives of most diverse views and convictions abroad.

Even in the United States the provocation of the militarists does not reflect the genuine mood of the American people.

Divergences are also growing in the top leadership of the bourgeoisie of the United States, as shown by statements of influential American newspapers and prominent businessmen and politicians.

Comrade Judges,

If in this trial, I as the defense counsel for Powers ask you to mitigate his punishment, I proceed not only from the reasons underlying the motives of the crime and the circumstances in which it was committed and also Powers' conduct after his detention, I also proceed from the strength, might and power of the Soviet Union and from the fact that the initiative and strength are at present in the hands of the peaceloving forces, the camp of peace and socialism.

That is why I ask you once again, Comrade Judges, while passing the sentence to take into account all the considerations I have set forth and to apply to Powers a more lenient measure of punishment than that demanded by the State Prosecutor.

Your verdict will add one more example to the numerous instances of the humaneness of the Soviet court, and will offer a sharp contrast to the attitude to man on the part of the masters of Powers—the Central Intelligence Agency, the ruling reactionary forces of the United States who sent him to certain death and wanted his death.

PRESIDING JUDGE: Defendant Powers, you have the word for the last plea.

DEFENDANT POWERS' FINAL PLEA

You have heard all the evidence of the case and you must decide what my punishment is to be.

I realize that I have committed a grave crime and I realize that I must be punished for it.

I ask the court to weigh all the evidence and take into consideration not only the fact that I committed the crime but also the circumstances which led me to do so.

I also ask the court to take into consideration the fact that no secret information reached its destination.

It all fell into the hands of the Soviet authorities.

I realize the Russian people think of me as an enemy. I can understand that, but I would like to stress the fact that I do not feel nor have I ever felt any enmity whatsoever for the Russian people.

I plead to the court to judge me not as an enemy but as a human being who is not a personal enemy of the Russian people, who has never had any charges brought against him in any court, and who is deeply repentant and profoundly sorry for what he has done.

Thanks.

PRESIDING JUDGE: The Court retires to determine the verdict.
(At 12:50 p.m. the Court retired.)

THIRD DAY

AUGUST 19, 1960
SECOND SESSION, 5:30 P.M.

COMMANDANT OF THE COURT: The Court is coming. Please rise.

PRESIDING JUDGE: Please be seated. The session is resumed. I will announce the verdict of the Military Division of the Supreme Court of the USSR.

VERDICT

In the name of the Union of Soviet Socialist Republics, the Military Division of the Supreme Court of the USSR consisting of: Presiding Judge — Chairman of the Military Division Lieutenant-General of Justice V. V. **Borisoglebsky**, and People's Assessors—Major-General of Artillery, D. Z. **Vorobyev**, Major-General of the Air-Force A. I. **Zakharov**, with the secretary — Major of the Administrative Service M. V. **Afanasyev**, and with the participation of States Prosecutor — Procurator-General of the USSR, State Counsellor of Justice R. A. **Rudenko**, and defense counsel — M. I. **Grinev**, lawyer, Member of the Moscow City Collegium of Advocates, has in an open court session in the city of Moscow, on August 17-19, 1960 heard the case against:

Francis Gary Powers, a citizen of the United States of America, born in 1929 in Burdine, Kentucky, a college graduate, pilot of the special 10-10 intelligence detachment of the United States Central Intelligence Agency, charged with having committed a crime covered by Article 2 of the Law of the U.S.S.R. "On Criminal Responsibility for State Crimes."

Court examination of the materials of the case has established that

on May 1, 1960, at 5 hours 36 minutes, Moscow time, a military unit of the Soviet anti-aircraft defense in the area of the city of Kirovabad, the Tajik S.S.R., at an altitude of 20,000 metres, unattainable for planes of the civil air fleet spotted an unknown aircraft violating the state frontier of the U.S.S.R.

The military units of the Soviet anti-aircraft defense vigilantly followed the behaviour of the plane, as it flew over major industrial centres and important defense objectives, and only when the intruder plane had penetrated 2,000 kilometres into Soviet territory and the evil purpose of the flight, fraught with disastrous consequences for world peace in the age of thermonuclear weapons, became absolutely obvious, a battery of ground to air missiles brought the aggressor plane down in the area of Sverdlovsk at 8 hours 53 minutes as ordered by the Soviet Government.

The pilot of the plane bailed out and was apprehended upon landing. On interrogation, he gave his name as Francis Gary Powers, citizen of the United States of America. Examination of the wreckage of the downed plane showed that it was of American make, specially designed for high altitude flights and fitted with various equipment for espionage reconnaissance tasks.

In view of this, pilot Powers was arrested and committed for trial on charges of espionage against the Soviet Union.

During the court hearings, defendant Powers testified in detail about his espionage activity and the circumstances connected with the violation of Soviet airspace on May 1, 1960.

In 1950 Powers volunteered for the American army, finished an Air Force school, and served as pilot at different U.S. Air Force bases in the rank of Senior Lieutenant.

In April 1956, Powers was recruited by the Central Intelligence Agency of the United States for special intelligence missions in high-altitude aircraft.

After he had concluded a secret contract with the U.S. Central Intelligence Agency for a term of two years, Powers was appointed a high salary of \$2,500 a month for espionage activity. He underwent special training and was assigned to the intelligence air detachment under the code name of 10-10, stationed at the American-Turkish war base of Incirlik, near the town of Adana, in Turkey.

The court has established that detachment 10-10 is a special combination of the United States military and civilian intelligence designed for espionage against the Soviet Union with the help of reconnaissance planes sent into Soviet airspace.

Starting with 1956 Powers systematically flew on espionage missions along the Soviet Union's frontiers with Turkey, Iran and Afghanistan, on orders from the 10-10 detachment's commander.

In May 1958, Powers renewed his secret contract with the Central Intelligence Agency of the United States for a term of two years and in January 1960, for yet another year.

The materials of the case and the testimony of Defendant Powers have established that the criminal intrusion into the airspace of the Soviet Union, committed by him on May 1, 1960, was carefully prepared long before it took place.

On April 27, 1960 Powers, together with the commander of detachment 10-10 American Colonel Shelton and a group of technical personnel intended for preparing the U-2 plane for its flight, were brought in a United States airforce transport aircraft from the Incirlik base to the Peshawar airport in Pakistan.

Another pilot ferried the U-2 plane in which Powers was to violate the air space of the Soviet Union to this same airfield from Turkey on April 30 of this year.

On the night of April 30, 1960 Colonel Shelton gave Powers the assignment to fly over the territory of the Soviet Union at an altitude of 20,000 metres along the following course: Peshawar, the Aral Sea, Sverdlovsk, Kirov, Archangel, Murmansk, and to land in Norway, at Bodoe airport, with which Powers familiarized himself back in 1958.

Flying over Soviet territory, Powers, on Shelton's orders, was to switch on at definite points his special equipment for aerial photography and the registration of the operation of Soviet anti-aircraft defense radar stations. Powers was to give special attention to two spots — in one of them American intelligence suspected the presence of missile launching ramps and in the other a particularly important defense objective.

The material evidence of the case has established that Powers fulfilled the criminal mission given him.

Having taken off from Peshawar airport in Pakistan, Powers flew over the territory of Afghanistan and for more than 2,000 kilometres over the Soviet Union according to the fixed course. Besides Power's testimony, this is confirmed by the American flight map discovered in the debris of the U-2 plane and submitted to the court, bearing the route plotted out by Major Dulak, navigator of detachment 10-10 and also notes and signs made by Powers, who marked down on this map several important defense objectives of the Soviet Union he spotted from the plane.

The Trial of the U-2

with the knowledge of the Government of the United States of America, in a specially equipped U-2 intelligence plane intruded into Soviet air space and with the help of special radiotechnical and photographic equipment collected information of strategical importance, which constitutes a state and military secret of the Soviet state, thereby committing a grave crime covered by Article 2 of the Soviet Union's Law "On Criminal Responsibility for State Crimes."

At the same time, weighing all the circumstances of the given case in the deep conviction that they are interrelated, taking into account Powers' sincere confession of his guilt and his sincere repentance, proceeding from the principles of socialist humaneness, and guided by Articles 319 and 320 of the Code of Criminal Procedure of the Russian Soviet Federated Soviet Republic, the Military Division of the USSR Supreme Court

sentences:
Francis Gary Powers, on the strength of Article 2 of the USSR Law "On Criminal Responsibility for State Crimes," to ten years of confinement with the first three years to be served in prison.

The term of punishment, including the preliminary detention, shall be counted from May 1, 1960.

The material evidence are to be kept with the file of the case. The money and valuables taken from Powers shall be forfeited to the state treasury.

In conformity with Article 44 of the "Fundamental Principles of the Criminal Procedure of the Soviet Union and the Union Republics" the sentence is final and not subject to appeal or cassation.

Presiding Judge **V. Borisoglebsky**
People's Assessors:

D. Vorobyev,
A. Zakharov.

PRESIDING JUDGE: I declare the Court Session of the Military Division of the Supreme Court of the USSR closed.

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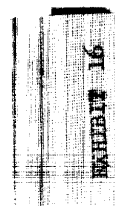
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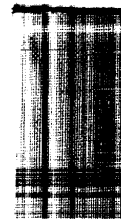


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