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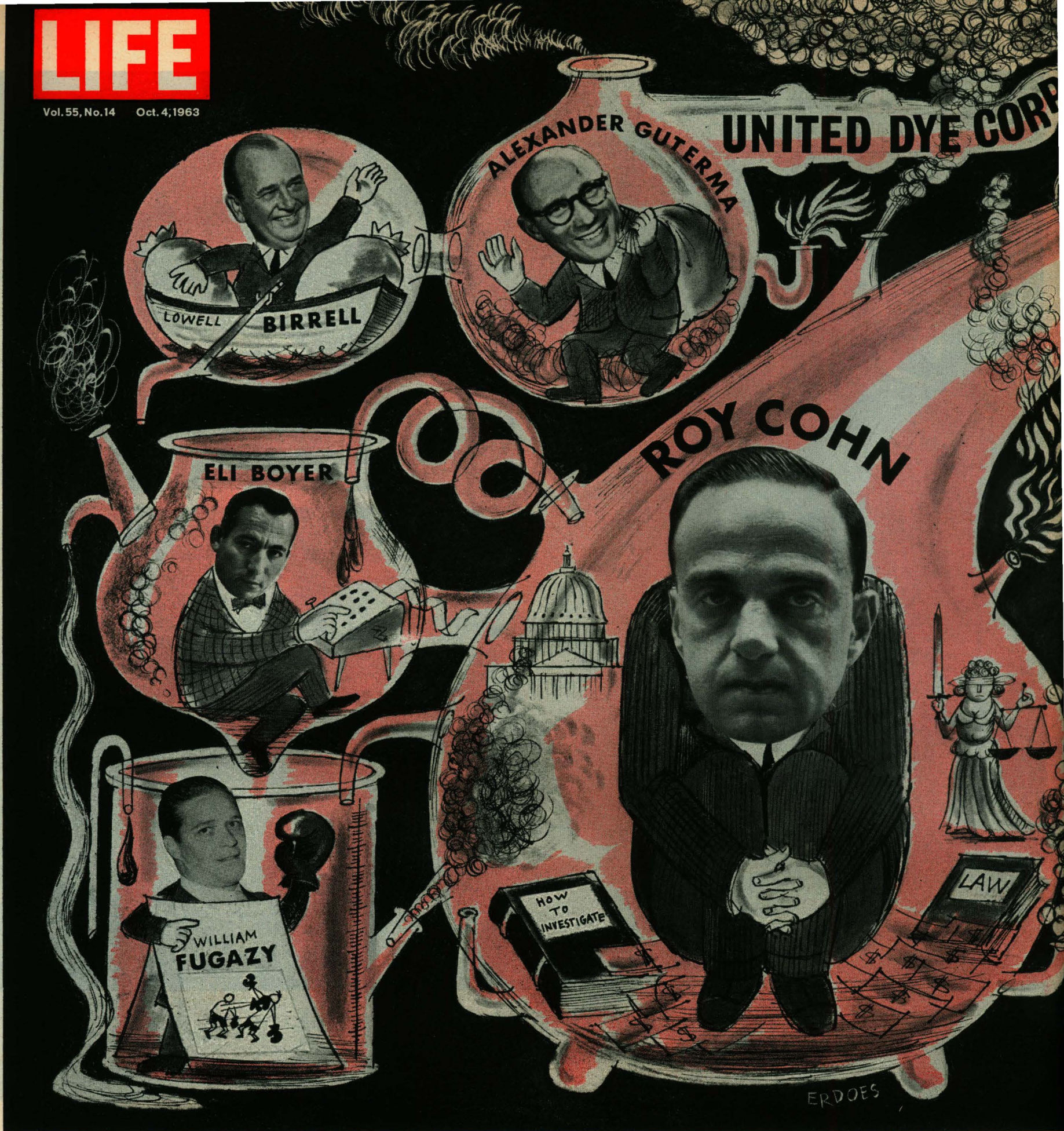
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Senator Joe McCarthy's Snarling Questioner Gets into a Real Snarl

ROY COHN:

The face in the central retort above—caught somewhere between a pout and the challenging glare that he once leveled at Senator Joseph McCarthy's selected targets—belongs to Roy Marcus Cohn, now a New York lawyer. This young man is unique in his time and few generations have known his equal. Only 36, he already has accumulated more fame, more notoriety, more material success and

more enemies than most men manage to do in all of a lifetime. But now and because of the faces around him—some intimately connected and some so remotely that he may never have laid eyes on them in the flesh—Roy Cohn's future, which promised even more virtuosity than his meteoric youthful past, may already be behind him. He is caught up in the toils of an intricate and infamous



THE ELEMENTS IN THE CASE

Roy Cohn sits in a chemical complex of dupes and jugglers—all involved in the United Dye Co. conspiracy and the government's indictment of Cohn. This drawing illustrates allegations in the indictment. It all started after Lowell Birrell (*top left*) bled United Dye white, then sold it to Alexander Guterma and skipped with the proceeds. Guterma involved Garfield, Pasternak, Roen and Swann (*top right*) in illegal manipulations of United Dye stock. Cohn, the indictment

goes on to charge, became involved with these four men. He worked through Murray Gottesman to forestall an indictment against the four. Gottesman talked to Chief Assistant U.S. Attorney Morton Robson; Leonard Glass of Robson's office handled the case; the men were never indicted. Later Cohn used Eli Boyer and promoter Bill Fugazy to get witnesses to change testimony. Finally, says the indictment, Cohn perjured himself about a supposed meeting with Garfield and Swann.

IS HE A LIAR UNDER OATH?

device, set into motion eight years ago by a clique of master swindlers, to rob the corporate body of an old American firm and cheat its stockholders. In this, for Roy Cohn, lies a bitter irony: nothing involves him in the fraud itself and nothing suggests that he profited by it. But he is accused of conspiring to save four members of the fraud from punishment and then later of conspiring

again to save himself from the consequences of his first conspiracy.

For these alleged acts, Roy Cohn was last month indicted as a common criminal. He faces possible ruin of his career and a prison term for perjury and obstruction of justice. The tortured, engrossing story behind this young man's present crisis is told in detail on the following pages—a story he himself has made necessary to tell.

IF THE CHARGE IS TRUE, COHN TRAPPED

by KEITH WHEELER and WILLIAM LAMBERT

Attorney Roy Marcus Cohn, 36, who was once described by his bull-in-a-china-closet boss, Senator Joe McCarthy, as "the most brilliant young fellow I've ever met," today stands accused of perjury and conspiracy to obstruct justice. These are serious crimes. But it is possibly even more galling to a man of Cohn's singularly self-confident temperament that the charge also implies he did something stupid.

Behind these accusations lies a story as tangled as a basketful of cobras—and it carries much the same mesmerizing, reptilian fascination. It takes particular patience to unwind the labyrinthian coil because Cohn in person appears only near its end. Even then, there remains a final snarl: the puzzle of whatever possessed Cohn to get enmeshed in it.

A 10-count indictment handed up last month by a federal grand jury charges that in July or August of 1959, Cohn and a confederate, New York Lawyer Murray Gottesman, entered into an illicit scheme to sidetrack a grand jury that was

looking into fraudulent manipulation of United Dye & Chemical Corp. stock. It further charges that almost three years later and for nearly a year thereafter, from June 6, 1962 to May 17, 1963, Cohn undertook a series of criminal acts designed to conceal the earlier conspiracy. It is alleged that these acts included personal perjury before a grand jury, and conspiring to threaten and intimidate other witnesses to testify falsely.

There is much mystery here. And the indictment, though a bulky 47-page document, does precious little to solve it. If Cohn is as smart as McCarthy said he was—and nothing in Cohn's history suggests he himself doubts it—why on earth would he have run the fearsome risk of tampering with a grand jury in behalf of people implicated in somebody else's swindle? Few of those who recall Cohn as he balefully skewered witnesses before Senator McCarthy's committee would suspect that his motive was compassion for somebody caught in a trap.

Cohn, who long ago proved that

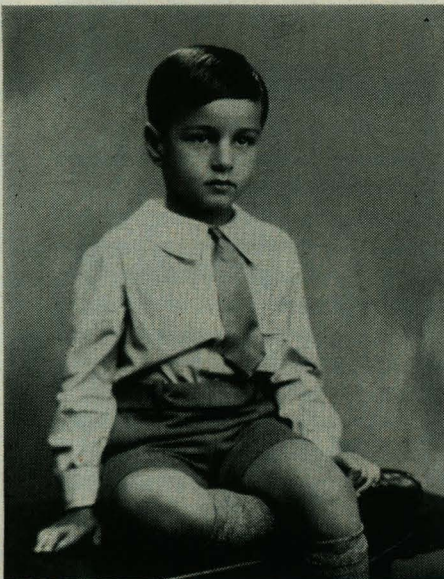
his nature is bellicose, hit back at last month's indictment in violent counterattack. He charged that he was the victim of a vendetta by U.S. Attorney Robert Morgenthau "and his superiors." Morgenthau, New York-based, works for Attorney General Robert F. Kennedy, and, Cohn has related, he once had a fist fight with the latter while both were counsels to the McCarthy committee. Cohn also suggested that Morgenthau nurses a grudge against him for the cavalier fashion in which he treated the attorney's father, onetime Treasury Secretary Henry Morgenthau, before that same committee.

As the big blaze in his furious backfire against the indictment, Cohn demanded a hearing "before some impartial forum" on 11 specific countercharges that "Morgenthau and company" were out to get him and had solicited false testimony to do it. In short, Cohn wanted to try the U.S. Attorney rather than be tried by him. He said that a suitable "forum" might be the New York Bar Association, whose grievance committee is open

to all lawyers. At the time this article went to press, however, no such request from Cohn had reached the bar association.

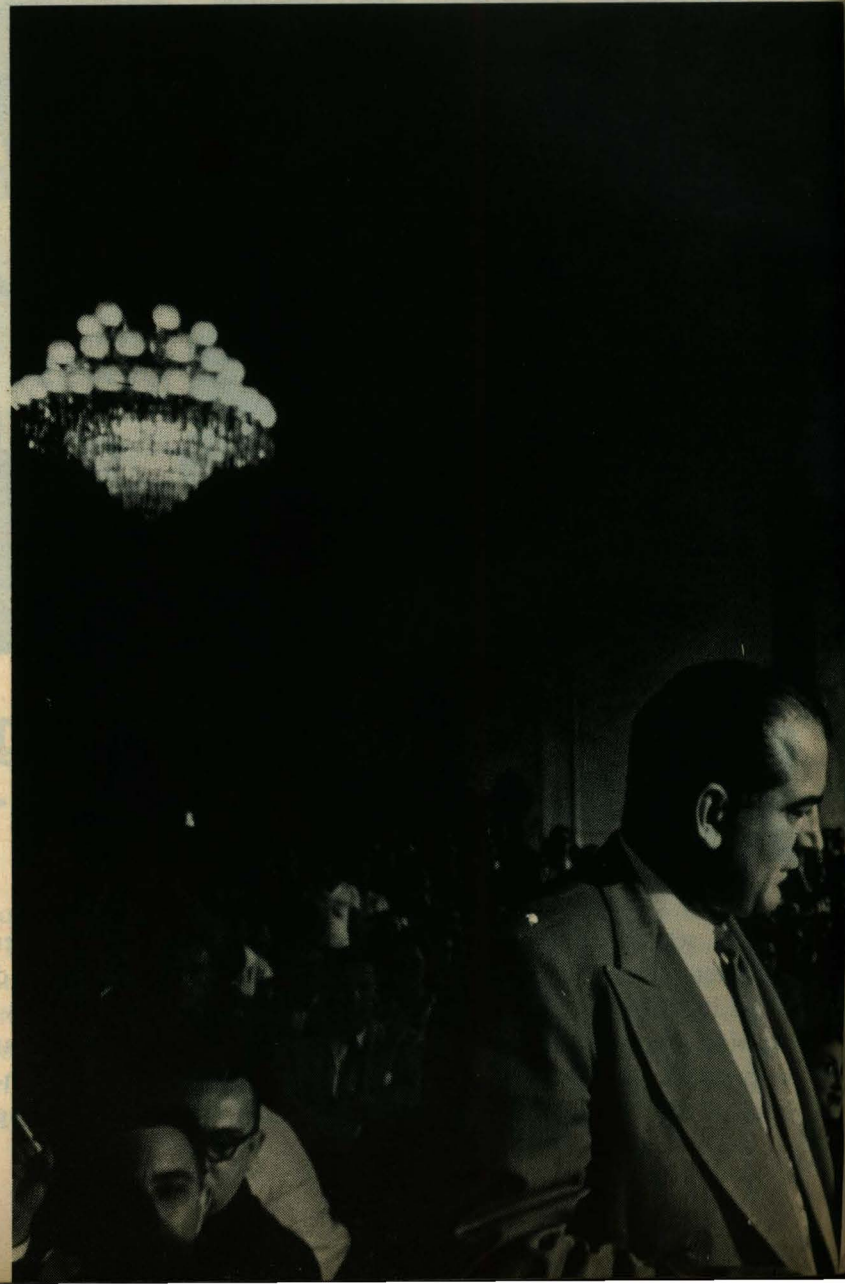
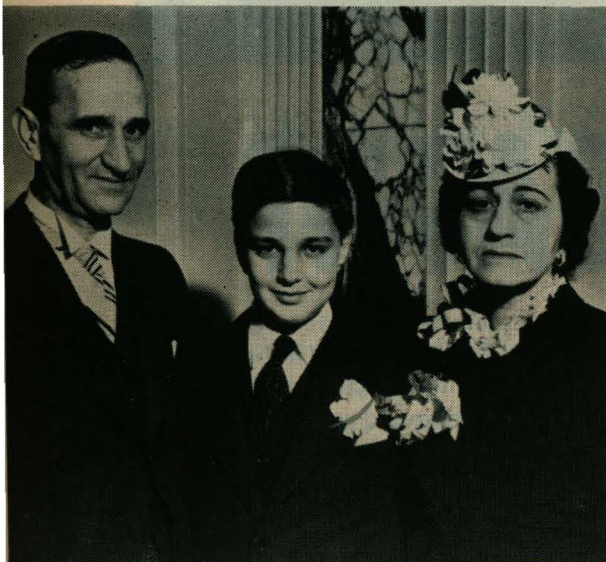
If the charges against Cohn stand up, his remarkable career—from schoolboy prodigy to whiz-kid Commie stalker to business tycoon to championship-fight promoter—could come to a dismal close. On the other hand, his countercharges invite a detailed review of the indictment which inspired them and the background to that indictment.

The plot that led to Cohn's present predicament really began to unwind as far back as 1955. In that year a con-man financier named Lowell Birrell, a brilliant student of the University of Michigan Law School, clubman and son of a Presbyterian minister, held control of United Dye, a 164-year-old firm which enjoyed the prestige of being listed on the New York Stock Exchange. Birrell had already looted the company's treasury of some \$2 million and picked its bones; now he was eager to dispose of the corpse.



COHN'S BOYHOOD: A PRECOCIOUS YOUNG MAN IN A BIG HURRY

Roy Cohn was an angelic-looking child (left, Roy at 5) adored by his parents. They are shown (left, below) with him when Roy was 13. Roy was an only child, and his mother was often anxious about him, in spite of his sound health. His father was an able New York State Supreme Court judge and a power in the local Democratic party. So it was easy for Roy, a precocious youngster, to put himself on a first-name basis with all the local politicians from Mayor Bill O'Dwyer on down. At school in New York City, Roy became a "little kingmaker," getting his friends elected to school offices, although he was never popular enough to run himself. Roy concentrated on getting through his education as fast as possible. He graduated from Horace Mann high school at 16 and crammed college and law school into four years, finishing Columbia Law at 20. "Roy was always smart," says a former schoolmate, "but it was shrewdness rather than intelligence." A Cohn family friend says, "Roy has deserved a spanking since he was a child, but I doubt if he ever got one in his whole life."



HIMSELF BY DOING SOMETHING STUPID

Birrell thereupon pulled one of the slickest capers of his notorious career. He found a buyer, unloaded his control stock for a reported \$400,000 and then departed for Brazil where, because the U.S. had no applicable extradition treaty with that country, he has been living in peace and prosperity ever since. The feature which made this transaction notable was the identity of his hoodwinked customer. The victim was Alexander Guterma, a financial manipulator whose talents entitled him to full membership in Birrell's own select circle of champion swindlers.

Guterma, a man of studied mystery who speaks like Brooklyn but has claimed he was born the son of a czarist general in Irkutsk, Siberia, had reached the U.S. in 1950 and set out straightway to become a financial wheeler-dealer of breathtaking virtuosity. At one time or another, often simultaneously, he wangled control of corporations ranging from carpets to machinery to lace to electronics to the Hal Roach Studios and the Mutual Broadcasting System. He never appeared to give a hoot what a company manufactured or

dealt in; what did interest him were the stocks, bonds, debentures and cash in the till. These he shuffled with bewildering dexterity—in and out, back and forth, from one company to another, faster than any eye could follow. By 1956 he controlled companies whose assets totaled \$25 million. One was the venerable Bon Ami Corporation, which Guterma, by masterfully kiting his own relatively limited assets, contrived to buy out of Bon Ami's own \$3 million treasury. Another was the old F. L. Jacobs Company, a onetime auto-parts maker which Guterma turned into a holding company. Eventually his manipulation of Jacobs brought him to grief with the federal government; he was sent to jail in 1960 under sentence of four years and 11 months.

However, for a time after he got control of United Dye in 1955, Guterma's shenanigans with the company remained as murky as his past. He was busy because—having been diddled by Birrell—he now had to jigger the company into a condition where he himself could loot it. His maneuvers, however, became so incredibly

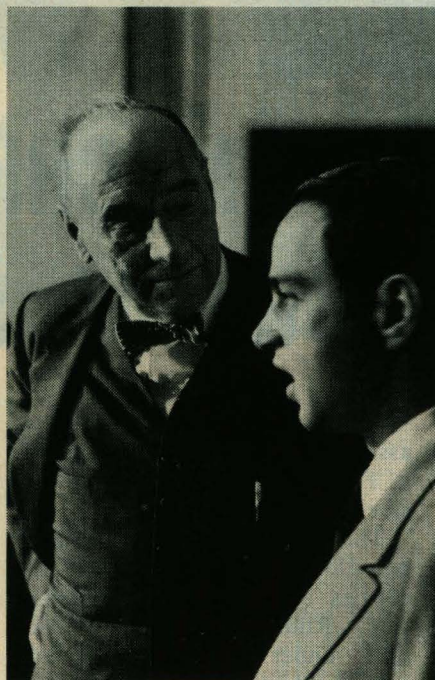
complex that when the United Dye case finally came before the federal district court in New York, it required the longest continuous trial in legal history and 26,731 pages of testimony to set things straight in the minds of judge and jury.

Nobody ever has established a link between Cohn and United Dye or Cohn and Guterma. But by 1957—three years after he departed his post as McCarthy's chief Red scalper and after the senator's own censure by his colleagues—the ambitious young lawyer was solidly established in private practice and reaching for business ventures of his own. He invested \$76,000 in the Sunrise, a private hospital project in Las Vegas. This act, for students of the curiosa of destiny, may seem the hand of fate; two of his fellow investors were Sam S. Garfield, a Russian immigrant newsboy turned oil driller and promoter, and Allard Roen, manager of Las Vegas' Desert Inn and Stardust hotels and gambling casinos. Both Garfield and Roen were already up to their necks in United Dye and both were to figure in Cohn's Armageddon.

CONTINUED



BUSINESS AS USUAL. At New York law office, Cohn presides at conference. Besides the law, Cohn has been involved in operation of a bus line and management of a toy company.



RISE AND FALL OF THE McARTHURY-COHN TEAM

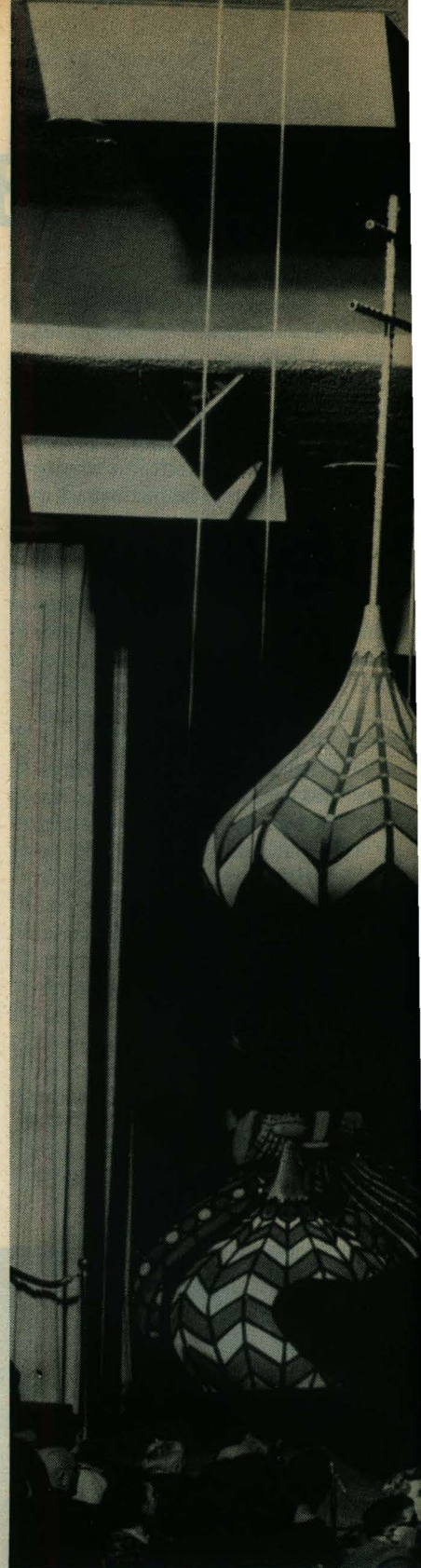
Men who helped make each other famous, Roy Cohn and Senator Joe McCarthy confer at left in the Senate Caucus Room during McCarthy's 1954 investigation of subversion in the Army. Cohn went to work for McCarthy in 1953 after a stint as a Justice Department lawyer. With his friend Dave Schine (shown above right with Cohn), he made the famous 1953 "gumshoe" junket around U.S. Information Agency bureaus in Europe, bringing back assorted information for McCarthy to use in his

notorious hearings. As McCarthy's right hand, Cohn rampaged through investigations of the State Department and *The Voice of America*. Finally in 1954 the two took on the Army. Cohn was forced to resign in 1954 after televised hearings, where he tangled with Joseph Welch (shown above left with Cohn), Army's special counsel. Welch and the Army said that Cohn, using his power as McCarthy's aide, had procured special privileges for Dave Schine after Schine was drafted into the Army.



COLUMBUS TO VEGAS, FROM SLICK SHOW GIRLS TO AN OLD OIL MAN

If he had stuck to the oil business, Sam Garfield (shown at left in front of one of his oil-drilling rigs) would not have gotten involved in the United Dye swindle—and Roy Cohn might not now be under indictment. Among his other investments, Garfield put money into a Las Vegas private hospital, in which Roy Cohn was also an investor. When he was in Las Vegas, Cohn sometimes came to the Desert Inn to enjoy its lavish shows (right). Manager of the inn was Allard Roen, a protégé of Garfield's. A principal owner of the inn was Moe Dalitz, well-known gambler who was investigated by the Kefauver committee. Like Cohn and Garfield, he invested money in the private hospital, and Cohn once was guest of honor at his house. When Garfield acquired United Dye stock, Roen also acquired some and both were subsequently charged with illegal sales of it. Cohn then, according to charges now against him, tried to help both Garfield and Roen by conspiring to keep the federal government from obtaining an indictment against them.



BEHIND THE MACHINATIONS LURK TWO GREAT SWINDLERS

COHN CONTINUED

Alexander Guterma's basic tool in using other people's money was the merger. When one company merges its assets with another, it is possible for the parent concern to pay for the acquisition with a new issue of its own stock. That much is legal. But a Guterma-style merger was likely to be more enterprising and imaginative. Companies brought into his firms—particularly into United Dye—frequently came in at a wildly inflated valuation. Often they were wretched "cats and dogs" whose assets were mostly fiction.

At first glance, it is hard to see how Guterma could do himself any good by issuing too much of his own firm's stock to buy a dead cat. The trick was that the new United Dye stock would be cut up among insiders of both companies

—and Guterma and his closest associates got the fatter chunks of it. The next step was to unload the stock on the public.

This operation was given a certain glow of legality under the Securities and Exchange Commission's Rule 133, which provided that, under special conditions, stock issued to effectuate a merger might be sold without registering it with the SEC. But this glow was an illusion because there also stands in the statutes the 1933 Securities Act, which makes it a crime to sell any *control* stock without first submitting it to registration.

Registration of United Dye's new stock was unthinkable, however, because that would have disclosed to the SEC and everybody else that the stuff was merely so much thin blue water and the price would have gone to pot.

But Guterma's agile mind found

a way out. First the United Dye conspirators hid the truth that the stuff was control stock by putting it in the hands of "nominees"—stand-ins for the control group. Second they sold United Dye "over the counter" through brokers whose instruments of persuasion were brightly optimistic brochures and high-pressure telephone sales talks.

Meanwhile it was necessary to shore up the stock's price on the Exchange, to give it a look of health irresistible to suckers. To do this, the conspirators bought judiciously and widely, in exchanges as far away as Tangier and Geneva, so as to create an illusion of an active market. They succeeded so well that they jacked the market up from \$9 to a peak of \$38.25.

After some months of this, Guterma engineered one weird merger which, in the end, brought United

Dye crashing down on everybody's head. Looking for things to merge with United Dye, Guterma heard of a small oil-drilling operation based in Denver and called Garnak. It so happened that the outfit belonged to Sam S. Garfield, Roy Cohn's associate in the Las Vegas hospital, and to Garfield's partner, one Irving Pasternak. Guterma journeyed to Denver, met Pasternak and painted for him such alluring visions of sudden riches that Pasternak rushed off, bemused, to spread the glad news to Garfield, who at that time was sick in bed—his resistance lowered and perhaps his good sense as well.

If ever Roy Marcus Cohn feels moved to denounce the cruelty of fate, he may well decide that one of his worst and most capricious enemies has been the unstable condition of Sam Garfield's health.



On his sick bed, Garfield heeded Pasternak and agreed to Guterma's proposition. Thus the rigmarole began. Through an intricate exchange of promissory notes, loans, stocks, postdated checks, purchases and sales of peripheral properties and cash "borrowed" from the Bon Ami and F. L. Jacobs treasuries, it was arranged first for Garfield and Pasternak to get control of some dead coal mines in Illinois and a half-dead oil pipeline in Wyoming. At some point in this whirlwind, the amalgamation of schemers "lent" 30,000 shares of United Dye to Garfield-Pasternak and advised them they could sell it. Whether or not they suspected what was happening to them, Garfield-Pasternak stood in violation of the 1933 Securities Act and had, the minute they sold the initial share of this unregistered control stock, committed a criminal act.

On May 1, 1956 the Garfield-Pasternak coal-pipeline operation was merged into United Dye. To create an illusion of paying for this turkey, the Guterma group issued 575,000 shares of new United Dye stock which, at the then market price of \$32, carried a face value of \$18.4 million. It takes courage as well as imagination and a monumental greed to be crooked on that scale; at that time United Dye's entire outstanding load of legitimate shares totaled a mere 153,000.

That was too much, far too overweening a swindle to keep entirely out of sight. Word got around that the SEC was investigating the derisive dance going on in United Dye. Of course, it took time to penetrate Guterma's labyrinth but, by February 1959, the then New York regional administrator of the SEC, Paul Windels Jr., felt sure enough

to ask the SEC to send to the Department of Justice a criminal reference report suggesting investigation and prosecution.

People began to worry. Guterma, long accustomed to keeping a couple of jumps ahead of others, prudently got off the United Dye board and dumped his last 43,000 shares of control stock on the company's then president, Virgil Dardi. Others who felt they might have something to be nervous about included Sam Garfield, the old oil driller, his partner Irving Pasternak, and their two immediate associates.

At this point in the accelerating United Dye drama, Roy Marcus Cohn for the first time appears as a dim figure alongside a principal player. Some time in 1958, Garfield met Cohn at a Caribbean resort and related his impending troubles with

the federal government. The cloud on Garfield's horizon was more than singular; as a man of some loyalty, he had the welfare of others to think about. One was, of course, his partner Pasternak. Another was Allard Roen, the Desert Inn manager who, in addition to being a fellow investor in the Sunrise hospital, was also the son of a boyhood friend and a sort of protégé. The third was his lawyer, one Allen K. Swann of Evansville, Ind. Swann, now 71, an attorney who specializes in oil and gas matters, had advised Garfield in many of his dealings, including those with United Dye. Swann and Roen now also were in jeopardy because as nominees, they had illegally disposed of unregistered United Dye control stock for Garfield-Pasternak. Whatever passed between Garfield and Cohn, lounging and talking in the tropical sun, may come out at Cohn's forthcoming trial.

'IN 1959 . . . ROY M. COHN ENTERED INTO A SCHEME . . .'

COHN CONTINUED

Paragraph 4 of the Cohn indictment reads: "In or about July and August 1959, ROY M. COHN [a defendant's name is always given in full capitals] and Samuel Garfield entered into a scheme whereby ROY M. COHN would arrange that Samuel Garfield, Irving Pasternak, Allard Roen and Allen K. Swann would *not* be named as defendants" in any indictment resulting from the United Dye case. In less formal words, the indictment charges that Cohn had promised to spring Garfield, Pasternak, Roen and Swann.

The next paragraph (5) charges that in August 1959 Cohn made

contact with Attorney Murray Gottesman, now his fellow defendant, to further the scheme he and Garfield had cooked up as a result of their talks. Paragraph 6 charges that "MURRAY E. GOTTESMAN contacted Morton Robson, then Chief Assistant United States Attorney for the Southern District of New York, in order to effectuate the arrangement described in Paragraph 4. . . ."

Well, then, if Cohn did pick someone to effectuate the arrangement, as charged, why Gottesman? Cohn and Gottesman seem to have had no visible previous professional association. The only apparent parallel between them was that both had solid local Republican connec-

tions. Cohn, of course, could boast the mystique surrounding him since his McCarthy days, and, until about two months previously, he had been a partner in Curran, Mahoney, Cohn and Stim, the law firm headed until his death in 1958 by Thomas J. Curran, chairman of the powerful Republican Committee of New York County. As for Murray Gottesman, he was at that time an associate of Bernard Newman, who had succeeded Curran as county chairman and served as such until he became a justice of the New York Supreme Court.

In August 1959 Morton S. Robson, who had a reputation as an

effective prosecutor, was Chief Assistant U.S. Attorney in the Southern District of New York and naturally exercised certain authority in any proceedings which might arise in the United Dye case. According to the indictment, it was Robson whom Gottesman contacted. Subsequently, from January through April 1961, Robson—a Republican—served as interim head of the office. After the Kennedy administration took over, Robert Morgenthau was appointed by the Democrats. Thereafter Robson set up a private practice.

But in August 1959, when the United Dye case was finally put before a grand jury—about the time the government says Cohn was "effectuating" the plot—presentation of the case was assigned to a young Assistant U.S. Attorney named Leonard R. Glass. Before joining the Southern District's prosecutors a few months earlier, Glass had

**Text continues
on page 99**



THE BUSY MAN ABOUT TOWN AND THE TALL MAN WHO IS A KEY TO THE CASE AGAINST HIM

Roy takes off in his chauffeur-driven convertible for a lunch date. "I have to do business on the go," says Cohn, "because I'm a younger man dealing

with older men." He deals with so many people he may get a bit confused about whom he has seen and whom he hasn't. Cohn has testified

that he had a meeting with the man on the opposite page, Allen Swann, a defendant in the United Dye case. The government doubts the meeting

took place. And this picture of Swann gives a clue—explained near end of this article—as to why the government feels it has caught Cohn in perjury.



CONTINUED FROM PAGE 30

ON COMES A U.S. PROSECUTOR WHO LIVED IT UP IN VEGAS

COHN CONTINUED

been in private practice and had had some experience in handling securities cases on the other side of the fence. In one 1957 securities fraud case in Detroit, he had defended a pair of operators named Sidney Barkley and Morris ("The Weasel") Miller. Both men, despite Glass's defense efforts, had been convicted of illegal stock sales. But now they were to appear in a curious relationship to the United Dye case. It would develop that Glass's two ex-clients possessed substantial knowledge of the supposedly secret 1959 grand jury proceedings conducted by Glass.

Under Glass's handling, testimony was heard by the grand jury as it sweltered through long days of tedious hearings. Then, on Aug. 25, 1959, it handed up a 24-page indictment. The charge named eight defendants, chief of whom were Alexander Guterma, Lowell Birrell and Virgil D. Dardi, president of United Dye. It did not name Garfield, Pasternak, Roen or Swann.

Publication of the document provoked indignant outcries from the named defendants. The burden of their complaint was that the indictment was invalid because it had been obtained in the course of a "corruption of justice." They complained they knew for a fact that the Glass grand jury had been manipulated. They pointed to a glaring truth: Garfield and his associates indeed had not been indicted along with them. They said they knew the supposedly secret grand jury proceedings had been leaking like a punctured bucket; one defendant declared that he had received a telephone call from the West Coast relaying information from inside the grand jury room and had even been advised of the odds on his being indicted. He said the calls had come from Morris Miller, one of Glass's former Detroit clients.

One defendant named by the Glass grand jury also indignantly announced he had prior knowledge that Glass would be entertained in Beverly Hills and Las Vegas as soon as the hearings were completed.

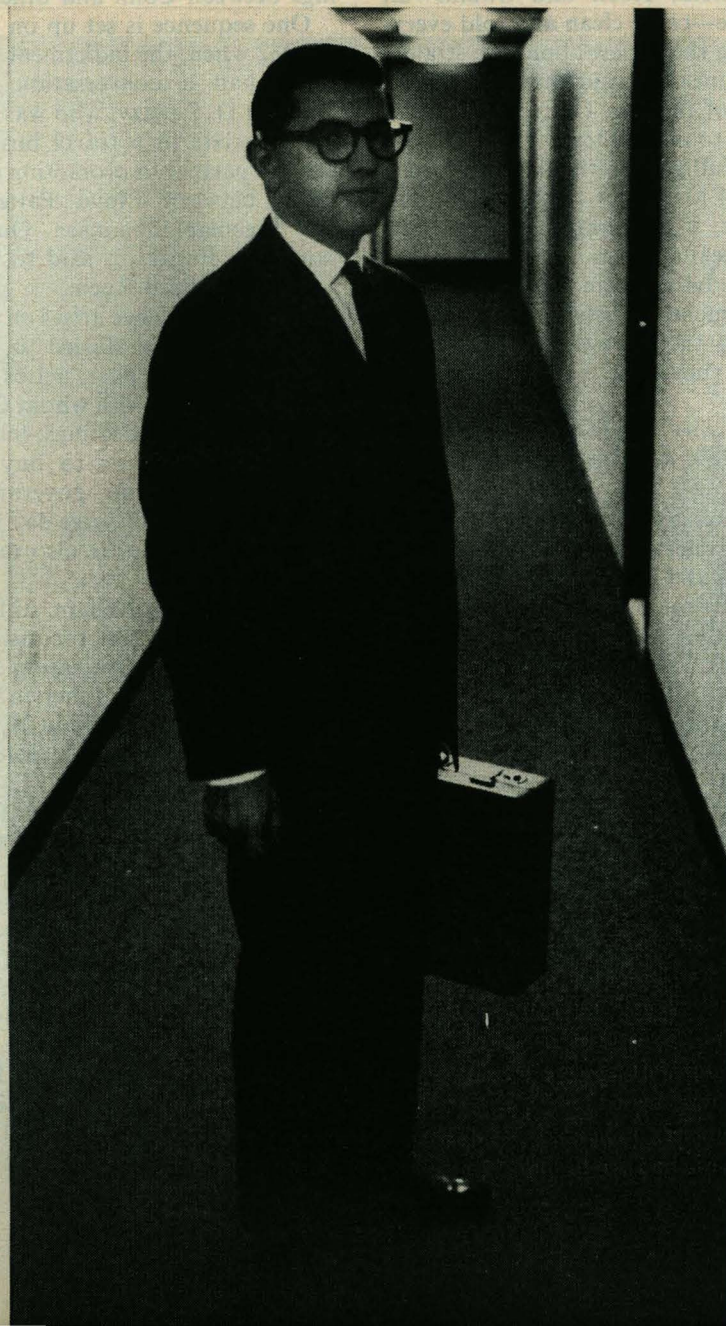
Records indicate that on Aug. 25, the very day the indictment against Guterma, Birrell, Dardi

et al was handed up, Glass's excellent Sidney Barkley checked in at the Beverly Hills Hotel, and that he stayed until Sept. 3. Barkley had also been a tinkerer with United Dye stock but thus far had escaped indictment.

Another defendant named by the Glass grand jury has stated that he and a companion visited Barkley during this stay. While they were in Barkley's suite, according to the defendant, "a little fellow I had never seen before walked into the room and skirted for the bedroom. He was wearing casual clothing and a sport shirt. Barkley said to me, 'I want you to meet someone.' Then he said, 'This is Leonard Glass.' I had read about Glass being the U.S. Attorney in the United Dye case and I recognized the name instantly. Glass said, 'I'm sorry to meet you under

these circumstances.' Glass walked into a bedroom of Barkley's suite and a few minutes later came out dressed up. Barkley asked if Glass could borrow my friend's car and my friend gave him the key and he drove away."

A few days later, a Las Vegas newspaperman was advised that Glass had arrived in that city. "I got a tip from one of the top gamblers in Vegas that Glass was staying at the Sands Hotel," the reporter said. "I called there and got Glass on the phone, and he asked me to come over poolside. . . . He was a little fellow with glasses who sat rather disconsolately in showy trunks and tops on a chair by the pool. He said he had come to Vegas on a vacation and that his visit had nothing to do with the United Dye case. He acknowledged that he had met Allard Roen [the Garfield pro-



tégé and casino manager] and had visited both the Desert Inn and the Stardust hotels, where he met many of Allard's friends. He said that he had merely made a phone call to get a reservation for the Labor Day weekend and that it was granted. Habitues of Vegas know that only Gold Card holders are given reservations on the Labor Day holiday. . . . A Gold Card holder is a high roller and Glass certainly didn't fit into this category."

At that time Assistant U.S. Attorneys in the Southern District of New York of Glass's rank were paid within a salary range of \$6,000 to \$8,500 a year.

But what, if anything, do Leonard Glass and his handling of the first United Dye grand jury have to do with Roy Cohn? The Cohn indictment does not say. It does refer to Glass, but only in an off-hand way. In Cohn's own grand jury testimony, when he was asked if Glass's name had ever come up in discussions with the United Dye defendants, he acknowledged that it "might have." Curiously, the brief exchange covers the only reference to Glass in the lengthy Cohn indictment.

The Federal Records Center in St. Louis, Mo. shows that Glass resigned on Jan. 29, 1960. His full personnel file was recently withdrawn by the Justice Department.

Meanwhile Roy Marcus Cohn took a great leap forward in the business world. Just about 45 days after the 1959 United Dye indictment came out, he acquired control of the Lionel Corp. and announced that he would broaden the base of that venerable toy train maker's operation into the field of modern electronics. To swing this financial coup, the then 32-year-old lawyer was able to borrow \$932,000 from New York, Hong Kong and Panama banks. (He was to lose control of the company when its losses reached more than \$4 million a year in 1962.)

The 1959 United Dye indictment served up by the Glass grand jury never came to trial. It was superseded by two other indictments which followed it. One was handed up in the autumn of 1960 while the U.S. Attorney's office was still Republican in complexion. This time oilmen Garfield and Pasternak, plus hotel and casino manager Roen and lawyer Swann, were charged as defendants along with Guterma and United Dye president Dardi. But boiler-room operator Barkley, ex-prosecutor Glass's former client, still led an apparently charmed life.

CONTINUED

EX-GOVERNMENT LAWYER. Leonard Glass, then assistant U.S. attorney, handled jury which did not indict Garfield, Pasternak, Roen, Swann.

PLOT THICKENS: MESSAGES, MEETINGS AND DIRE THREATS

COHN CONTINUED

By this time a New York attorney, William G. Mulligan, once counsel for the New York Curb Exchange and a specialist in security cases, had been retained to defend Garfield, Pasternak and Roen. Mulligan, acting for his clients, felt the indictment as drawn was probably vulnerable and suggested that the government might wish to drop it. Instead the government chose to bring in a third indictment naming 34 individual and corporate defendants. The roster finally included Sidney Barkley, whose luck had run out. Now he was named along with the quartet of Garfield, Pasternak, Roen and Swann. He pleaded guilty.

History's longest trial began on Feb. 27, 1962 in the U.S. District Court of Judge William B. Herlands. The trial had scarcely begun when the federal prosecutor, Assistant U.S. Attorney Gerald Walpin, dropped a hand grenade into the proceedings. He charged that the conspirators had given Ohio's former U.S. Senator George Bender, at the time an influential member of the Eisenhower administration, a bribe of \$100,000 to try to squelch the 1956 SEC investigation of United Dye. Walpin's accusation created a brief sensation but never seriously affected the trial. Bender had died suddenly of a heart attack in the middle of June 1961, a couple of days after appearing before the second United Dye grand jury.

The trial was about six weeks along and a dreary vista still loomed ahead when court recessed on the blustery, blizzardy afternoon of March 12, 1962. Garfield and Roen left the court and, like other desolate pedestrians before them, hunted in vain for a taxi. They soon learned a hard fact of New York life: there are no taxis to be had in bad weather. Weary, wet and cold they tried the East Side Lexington Avenue subway to take them uptown to the shelter of their hotel. But, not attuned to the New York subway system, they took a crowded local by mistake. Jostled from all sides, hanging to a stirrup hinged to the ceiling, Garfield felt trapped and suffocated. At Spring Street, only a quarter along his way, he fell down among the galoshes and began to hemorrhage. An ambulance carried him to Columbus Hospital.

A court physician was dispatched

to Garfield's bedside to get a prognosis on when trial might be resumed. The doctor returned with a report that it was medically impossible to predict the course of Garfield's illness or even whether he would survive.

Here was a dilemma. This was a defendant who might die on their hands or whose illness, even if he lived, might well unconscionably delay what already promised to be a wearily long trial. Now the court and the government agreed to accept Garfield's plea of guilty on just one count of the multiple counts against him. But when Mulligan presented the plea to the court, he carried with him a condition attached by his client: Garfield would plead guilty only if his close friends and associate defendants, Roen and Swann, were permitted the same minimum plea. (Pasternak, at this point was still full of fight and refused to make any concessions.)

The government thereupon advised Mulligan that it would accept no pleas and no conditions until Garfield, Roen and Swann—all three—came clean and told everything they knew about the strange circumstances surrounding the failure of the first United Dye grand jury to indict them.

Mulligan, in the dark, demanded of his clients that they tell him what, if anything, they had been concealing from him. They talked. He advised them to go to the Department of Justice and tell everything they knew. Dragging their feet, they went.

The story the three defendants told involved Roy Marcus Cohn.

Subsequently, on March 19, 1962, Judge Herlands permitted Garfield, Roen and Swann to plead guilty to one count of violating the securities laws. Four months later, Pasternak finally pleaded guilty to 12 counts. Trial of the other defendants dragged into February 1963—almost a full year after it began. When it ended, five more of the defendants were found guilty and given stiff sentences. Garfield, Roen and Swann, however, have not yet been sentenced. Nor has Barkley. Judge Herlands did finally sentence Pasternak to 2½ years and a fine of \$50,000, but execution of his sentence is still being deferred.

Meanwhile, long before the trial ended and soon after the trio had spilled what they knew, another grand jury had, on April 2, 1962 commenced a separate inquiry. Its

purpose was to determine whether anybody had conspired to bribe public officials and to obstruct justice during the original 1959 grand jury investigation into the United Dye conspiracy. Just last month, on Sept. 4, 1963, that grand jury handed up the present indictment which charges Cohn and Gottesman with perjury and conspiracy to obstruct justice.

Now what, precisely, does the government maintain that Cohn and Gottesman did? The indictment lists 34 events taking place between June 6, 1962 and May 17, 1963 as having a bearing on its present case.

In Paragraph 17 the indictment charges that Cohn and Gottesman and several co-conspirators "unlawfully, wilfully and knowingly would corruptly, and by threats and threatening communications, influence, intimidate and impede and endeavor to influence, and impede witnesses" before the grand jury.

The government also points out a chain of conversations and meetings between Cohn and others.

One sequence is set up on June 6, 1962 when, the indictment says, Cohn had a conversation with William D. Fugazy, who was then his associate in a travel business and his partner in promoting prize fights between Floyd Patterson and Ingemar Johanssen. On the same day Fugazy is said to have spoken to Allard Roen.

Another sequence arises on June 25 when Cohn is alleged to have talked with Eli Boyer, a Los Angeles accountant with whom Cohn has had business dealings, including arranging loans to buy the Lionel Corp. The government charges that on the same day Boyer talked to Cohn he also talked to Allard Roen.

Fugazy is involved in still another sequence. He, too, is said to have had a conversation with Cohn on June 25, and then to have talked with Roen on June 26, and with both Roen and Garfield on June 27.

The indictment further sets forth that Cohn kept on having talks with Fugazy and Boyer, and that they kept on having talks with Roen and Garfield. Then, at last the government charges that Cohn talked personally to Garfield—twice on July 16, again on July 17.

The indictment alleges that Roy Cohn was using Fugazy and Boyer as pipelines to communicate threats to Roen and Garfield—to induce Garfield to recant his

grand jury testimony; and induce Garfield and Roen to lie under oath to that same grand jury. If, indeed, Cohn was using Fugazy and Boyer to communicate these threats, he was also involving two otherwise uninvolved associates in the commission of a major crime.

Cohn and his associate defendant and alleged instrument, Lawyer Murray Gottesman, also were witnesses before the grand jury investigating them, and the government charges it was there that they perjured themselves.

Cohn's own most significant testimony, in light of the indictment, was given on April 5, 1963. One section of that testimony deals with questions to establish whether, in June of the year before, while the same grand jury was investigating him, Cohn sent a message to one Morris ("Moe") B. Dalitz asking that Dalitz return immediately from Europe. In his testimony Cohn denied sending such a message. He said that his only contact with the Dalitz family during that period—when he is charged with having threatened Garfield and Roen—was "some postcards from Mrs. Dalitz."

If, as charged, Cohn was attempting to put the squeeze on Garfield and Roen, he could scarcely have chosen a more appropriate vise than Dalitz. Moe Dalitz grew up with Sam Garfield in Detroit. As youngsters they were newsboys together and later they worked in the same pool hall. They have been lifelong friends, although in different businesses. Allard Roen, as manager of the Desert Inn and Stardust, is in the hire of Dalitz, who is a major owner. Like Garfield, Roen and Eli Boyer, Dalitz too was an original investor in the Sunrise hospital with Roy Cohn. Dalitz has been a figure of considerable notoriety ever since the old Kefauver rackets committee took an interest in his underworld history. He and Cohn are familiars of Las Vegas; in 1960 Cohn was Dalitz's guest of honor at a New Year's Eve party there.

But the Cohn indictment bears down most severely on a second section of his testimony of April 5, 1963; 12 pages of that testimony are repeated verbatim in the indictment. This testimony has to do with a purported 1959 meeting in Sam Garfield's hotel suite of Lawyer Gottesman with Garfield and the oil lawyer, Allan K. Swann. Cohn said he attended the meeting. The thrust of his testimony is to the effect that he had intervened in Garfield's behalf only to the extent of obtaining Gottesman's services to advise Garfield and Swann, and that he himself was at the meeting only as an observer.

Thus, for the first time in all these proceedings, Cohn himself

HOW TRUE IS ROY COHN'S MEMORY?

COHN CONTINUED

came forward as an active participant. Now, in grand jury testimony, he identified himself as present and involved in affairs having to do with Samuel Garfield. Herein, because he voluntarily projected himself onto the stage, lies the indictment's implied accusations that Roy Marcus Cohn, a man of acknowledged brilliance, did something stupid. The government charges that the 1959 meeting testified to by Cohn never took place. Indeed, the government maintains that the meeting was a fiction manufactured by Cohn and given support in grand jury testimony by Gottesman.

As outlined in Cohn's testimony, the purpose of the meeting was for Gottesman to discuss with Garfield and Swann the advisability that the latter should go before the United Dye grand jury, and also to discuss his probable testimony. The tenor of their discussion, said Cohn, was that Swann expected to go before the 1959 grand jury and testify to having advised Garfield that, in his opinion, Garfield's proposed dealings in the United Dye stock would be legal.

There is, of course, a nagging question. If Cohn did fabricate that meeting—thus at last propelling himself personally and publicly into the case's known cast, and placing himself in the dire jeopardy of having committed a crime that could ruin his career and send him to prison—what possible powerful motive could have driven him to do so? In simple terms, why destroy yourself?

There is no answer on the records, as yet. Meanwhile, the government is beholden to prove only that Roy Marcus Cohn did perjure himself, not *why* he did so.

The 1959 meeting in Garfield's hotel suite, as Cohn has described it, would have been legitimate and logical. True, if Swann were to testify that, in his judgment, the dealings of Garfield, Roen and Pasternak, as well as his own, had been legal, Swann's professional competence might be challenged. But in the eyes of a grand jury, defendants who had followed such advice might not be considered guilty of *deliberate* fraud.

On the other hand, if, as the government charges, this defensible meeting never did take place, why would Cohn have created it out of whole cloth?

A part of the answer lies integral in his indictment. Cohn—be-

ing both curious and well informed—knew that a grand jury had been investigating him for a full year. He also knew, for the same reasons, that Garfield, Roen, Swann and Barkley had appeared before that grand jury. He knew what the facts were and he could guess how they had testified. Now he knew his involvement with the four would be a matter of record. Thus it was necessary to him to shape that record to his favor. His own testimony to the grand jury could accomplish exactly that.

The pattern of the indictment suggests that the Garfield-Roen-Swann-Barkley quartet had already implicated him in a much more damning way. The potential defendants in the United Dye conspiracy undoubtedly held many meetings. But one, which took place without question, in August 1959, holds special significance in that it brought lawyer-defendant Swann from his Evansville, Ind. home to New York in hurried response to a telephoned summons. In New York he joined in discussions with Garfield, Roen and Barkley, the former client of government prosecutor Leonard Glass. No attorneys other than Swann were present—not Cohn, not Gottesman. However, the four discussed Swann's forthcoming grand jury testimony. At this juncture Barkley told Lawyer Swann those questions he would be asked by Glass within a few short hours before the grand jury.

The pertinent point here is: by what chain did Barkley learn the questions he then conveyed to Swann?

It is possible from the tenor of the questions submitted to Cohn in April 1963 to detect the faint outlines of the circumstances under which the government hoped to demonstrate that Cohn was a liar under oath. A full three pages of questions and answers were exhausted in an effort to elicit from Cohn a description of Lawyer Swann. On the basis of the meeting Cohn had described, he was asked to recall Swann's appearance, manner, dress, apparent ability to hear and, most particularly, his height.

At several points Cohn protested good humoredly that the meeting had taken place some four years before and that he could not be expected to remember precisely. His most-vivid recollection of Swann was that he talked a lot.

Once Cohn said, "I do recall that Mr. Swann was almost endless. He would ask me a simple question, or something like that, and he would go on for 20, 30 minutes..."

Again Cohn said, "No, I recall nothing in particular. As I say, the one thing I do recall is he was very long winded."

U.S. Attorney Gerald Walpin kept returning again and again to Cohn's recollection of Swann's height. When first asked, Cohn's answer was, "I would say his height was—I don't think he was very short, or very tall—I'd say average, or above average. I don't know. I just don't."

Walpin, evidently unsatisfied, pursued the question. He asked Cohn to set forth his definition of "average." He asked Cohn how tall he himself was and, when Cohn replied, "Five-eight," he wanted to know whether Cohn considered that average. Cohn replied, "I would say average to short—on the short side." Walpin then volunteered that he himself was 5 feet 4½, and what did Cohn think of that. "I'd consider you on the short side. I'd probably consider myself on the short side a little," Cohn answered.

In short, Cohn kept insisting that Swann was so "average," in all ways so undistinctive, that he could not reasonably be expected to remember the man. At length Walpin's line of questioning about Swann seemed to weary Cohn and he said, "Mr. Walpin, if you go on five minutes more, you're going to persuade me I never saw Mr. Swann, and I know I did."

In that answer Cohn seems to have nailed precisely on the head what the government was attempting to prove: that indeed Cohn never in his whole life had laid eyes on Swann; and that if he had never seen Swann, the meeting he described had never taken place.

Well then, whatever the reach and span of Cohn's memory, Allen K. Swann, in full, roaring life size, is a man of quite remarkable appearance and mannerism. He is a big man physically, broad of shoulder and powerful of hand, lean and rangy and more than 6 feet tall. Although he is now 71 years old (67 at the time Cohn claims to have met him), he still has a head of sandy gray hair. His visage is distinctive, he has a jutting jaw and a general appearance of flatness and strength which, moreover, is somehow emphasized by horn-rimmed spectacles with thick lenses. He is quite deaf and wears a hearing aid attached to his spectacle frames. And, perhaps because of his deafness, he speaks in a loud, booming voice which still carries the accents of Oklahoma where he was born. In all, he's a very memorable man.