son must be supported by the testimony of two witnesses," [1432] Justice Jackson asserted. Justice Douglas in a dissent, in which Chief Justice Stone and Justices Black and Reed concurred, contended that Cramer's treasonable intention was sufficiently shown by overt acts as attested to by two witnesses each, plus statements made by Cramer on the witness stand.

The Haupt Case.—The Supreme Court sustained a conviction of treason, for the first time in its history, in 1947 in *Haupt v. United States*.[1433] Here it was held that although the overt acts relied upon to support the charge of treason—defendant's harboring and sheltering in his home his son who was an enemy spy and saboteur, assisting him in purchasing an automobile, and in obtaining employment in a defense plant—were all acts which a father would naturally perform for a son, this fact did not necessarily relieve them of the treasonable purpose of giving aid and comfort to the enemy. Speaking for the Court, Justice Jackson said: "No matter whether young Haupt's mission was benign or traitorous, known or unknown to the defendant, these acts were aid and comfort to him. In the light of this mission and his instructions, they were more than casually useful; they were aids in steps essential to his design for treason. If proof be added that the defendant knew of his son's instruction, preparation and plans, the purpose to aid and comfort the enemy becomes clear." [1434]

The Court held that conversation and occurrences long prior to the indictment were admissible evidence on the question of defendant's intent. And more important, it held that the constitutional requirement of two witnesses to the same overt act or confession in open court does not operate to exclude confessions or admissions made out of court, where a legal basis for the conviction has been laid by the testimony of two witnesses of which such confessions or admissions are merely corroborative. This relaxation of restrictions surrounding the definition of treason evoked obvious satisfaction from Justice Douglas, who saw in *Haupt* a vindication of his position in *Cramer*. His concurring opinion contains what may be called a restatement of the law of treason and merits quotation at length:

[1432] 325 U.S. at 34–35. Earlier, Justice Jackson had declared that this phase of treason consists of two elements: "adherence to the enemy; and rendering him aid and comfort." A citizen, it was said, may take actions "which do aid and comfort the enemy . . . but if there is no adherence to the enemy in this, if there is no intent to betray, there is no treason." Id. at 29. Justice Jackson states erroneously that the requirement of two witnesses to the same overt act was an original invention of the Convention of 1787. Actually it comes from the British Treason Trials Act of 1695. 7 Wm. III, c.3.

[1433] 330 U.S. 631 (1947).

[1434] 330 U.S. at 635–36.