

Oral History Interview
with
CONRAD E. SNOW

Director, Legal Division, Office of Chief Signal Officer, 1940-45; in charge of clemency, Office of the Under Secretary of War and member of Clemency Board (Roberts Board), 1945-46; asst. legal adviser for political affairs, U.S. Dept. of State, and adviser to U.S. member, Far Eastern Commission, 1946-50; chairman, Loyalty-Security Board, 1947-52; asst. legal adviser for Far Eastern Affairs, 1950-56; member of the Advisory Board on War Criminals, High Commissioner for Germany, 1950; U.S. representative negotiating Status of Forces Agreement, London, 1951; and chairman, Clemency and Parole Board for Japanese War Criminals, 1952-56.

Gilmanton Iron Works, N.H.
July 2, 1973

by Richard D. McKinzie, Harry S. Truman Library

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NOTICE

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RICHARD D. MCKINZIE: General Snow, would you begin by giving a little information about how you came to re-enter the military service in 1940. You had, after all, already had a distinguished career as a lawyer. You had already served in the military, and you went back to service before Pearl Harbor.

CONRAD E. SNOW: That's right.

MCKINZIE: Could you give us some background about how you came back to the service and then a brief account of your subsequent wartime career?

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SNOW: I had not reserved a Reserve Commission after my experience in the First World War, but in 1940 I had a telegram from Robert P. Patterson, then Assistant Secretary of War, asking me to come to Washington because he needed my services. The upshot of that was that I entered the army in the fall of 1940 as a lieutenant colonel in the Signal Corps for the express purpose of taking care of the legal affairs of the Signal Corps.

MCKINZIE: Had you known Mr. Patterson, General Snow?

SNOW: Yes. He was a classmate of mine in Harvard Law School.

MCKINZIE: So most of the wartime years you were involved then with the legal affairs of the Signal Corps?

SNOW: I was Director of the Legal Division of the Signal Corps. I was the legal advisor of the

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Chief Signal Officer from the beginning. Shortly after that the Legal Division was organized and I was made Director of the Legal Division. While I was the only lawyer they had in the Signal Corps at the beginning, at the end I had 75 lawyers and a 150 civilians in my department.

MCKINZIE: Could you explain basically how this evolution came about?

SNOW: Well, it came about through the multiplicity of my duties. I not only had supervision of the contractual affairs of the Signal Corps which amounted to purchasing ten billion dollars worth of stuff in three years, but I had all the labor problems and the patents and inventions problems of the Signal Corps, which necessitated numerous offices throughout the United States -- in twelve cities as a matter of fact. I had to have officers to man these various offices.

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MCKINZIE: Had you known people in the Department of State and had you considered any work in the Department of State prior to your joining that Department?

SNOW: Never. When I retired from the Army in 1946 I had to consider what I should do next. My practice of the law in New Hampshire had disintegrated through the closing of the office for the period of the war, and I decided that I would like to do something in the way of public service. The State Department appeared to be a natural recourse. Patterson recommended me to the Secretary of State.

MCKINZIE: Yes. I understand you have a letter [See Appendix A] which we could insert into our record at this point.

SNOW: Yes.

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MCKINZIE: May I go back and ask you about serving for the Under Secretary of War in 1945 and 1946 on the Clemency Board which was established to review for clemency the cases of, I believe, some twenty-two thousand or so army personnel?

SNOW: There were three clemency boards, as a matter of fact, that I sat on. The clemency board that I think you refer to was the Clemency Board of the War Department where I was serving under Kenneth C. Royall, Under Secretary of War, after the closing of my work for the Legal Division of the Signal Corps.

MCKINZIE: I see. This was at the close of that period.

SNOW: Yes, in 1946. I sat on the Board under the chairmanship of Owen J. Roberts, formerly Justice of the Supreme Court of the United States, and familiarly called the Roberts Board. And that Board passed on some twenty-two thousand five

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hundred cases of soldiers who were in penitentiaries for all the crimes on the calendar, from AWOL to murder to rape. We reduced the sentences in eighty percent of the cases.

MCKINZIE: Could we at this point talk a little about that? What kinds of legal principles were involved in those reductions? Was it just a matter of the war now being over and leniency was kind of in the air because of the victory, or were there some harsh differences between codes of military justice and civilian justice which needed to be reconciled?

SNOW: The sentences passed out by courts-martial during the war were in the highest degree uneven. There were extraordinary sentences for slight offenses -- like AWOL for a few days or a few weeks and handed out by military courts in the exigencies of battle practically. So they needed reductions, these extraordinary sentences.

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MCKINZIE: Were there people on that Board who had other views about that? There was a feeling of some later that the military justice code had to be extremely harsh in order to maintain discipline.

SNOW: Well, that's true. In order to maintain discipline it was necessary for these courts-martial to hand out severe penalties at the time the sentences were handed out. But after every war there comes a period when those harsh sentences have to be reviewed and mitigated.

MCKINZIE: To your knowledge, did this experience with the Roberts Committee have an effect on your acceptance by the State Department or their interest in your work?

SNOW: I don't know that they even knew about it.

MCKINZIE: Could you tell me something about the first days in the State Department? Did you

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have a clear idea of what you were going to be doing when you arrived there?

SNOW: No. No idea of what I was going to do, and no idea of international law; and I was Assistant Legal Adviser for Political Affairs at the beginning. Later on it was changed to Assistant Legal Adviser for Far Eastern Affairs.

MCKINZIE: Yes. Could you tell how you happened to become involved in Far Eastern Affairs. Is it a particular expertise, did you have a knowledge of Far Eastern problems or was this one of those things that happen in the State Department?

SNOW: Well, it was partly just what happened, but as Assistant Legal Advisor for Political Affairs I had been given the job of serving as counsel for the American delegation on the Far Eastern Commission. I sat continuously with

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the Far Eastern Commission from my entrance into the State Department until, I think, '52 when it ended.

MCKINZIE: May I ask you about that Far Eastern Commission? Do you recall any of its substantive work? It didn't have much effect, did it?

SNOW: Well, it issued directives to General Douglas MacArthur, and one of the most important works of the Board was trying to reconcile the Board to the fact that MacArthur never really observed the directives.

MCKINZIE: This was the important job of the counsel, you say?

SNOW: Yes, the Far Eastern Commission.

MCKINZIE: Well, as it wasn't having much effect did you ever think that it might legally be disposed of, or that that ought to be taken care

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of some other way?

SNOW: No. I don't know if that occurred to me; but there was a great deal of difficulty in getting MacArthur to observe its dictates.

MCKINZIE: Did anybody at the time ever say anything to you about a military man being involved in political affairs in the State Department? There has since been, as you well know, a great deal of discussion about the lines between the military and the executive branch -- the extent to which military thinking must bear upon the diplomacy. Was this ever any concern of yours in those days?

SNOW: No. I don't think my experience as a soldier in the Second World War had any great bearing on my job as an Assistant Legal Advisor. I think my work as Assistant Legal Advisor was initially assigned to me because of Patterson's letter, and my experience as a lawyer rather than a soldier.

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MCKINZIE: Could you explain how you came to be involved in the two other clemency boards on which you served? You mentioned one the Roberts Board.

SNOW: Yes. On the Roberts Board I served under the Under Secretary of War in the Second World War, in 1946. The next one was the Advisory Board on Clemency appointed by John J. McCloy, U.S. High Commissioner for Germany. The State Department loaned me to General McCloy for that purpose, and I went to Germany with David W. Peck, Presiding Justice of the Appellate Division of the First Department of the New York Supreme Court, as Chairman; and Frederick A. Moran, Chairman of the New York State Board of Parole, as the second member, and myself as the third member. We went to Germany for forty days. We read five thousand pages of opinions and passed on -- I don't remember offhand how many criminals

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there.

MCKINZIE: I read someplace that it was one hundred and four.

SNOW: A hundred and four I think that was right. A hundred and four war criminals -- recommending reduction of sentences in many, and probably most, cases.

MCKINZIE: Again, could I ask you to discuss the reasoning of this committee and even the legal principles involved if you recall them.

SNOW: Some recent writer has misinterpreted the work of this committee by assuming that our job was to retry the crime committed. That was not so at all. In all cases we assumed that the crime had been committed exactly as found by the court.

MCKINZIE: The Nuremberg Court, yes.

SNOW: No, it wasn't the big Nuremberg Court. It

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was several minor courts of American judges. We didn't concern ourselves in the guilt of the criminals for the crimes for which they were found guilty. What we busied ourselves with was the suitability of the sentence to the crime, and in all cases where we recommended a reduction of the sentence we came to the conclusion that the sentence was excessive for the crime involved.

MCKINZIE: General Snow, why was it necessary to go to Germany for the review of this? Were not the records available in Washington?

SNOW: As far as I know they were not.

MCKINZIE: So it involved then, mainly, a task of reviewing the appropriate legal documents and transcripts of the trials?

SNOW: The transcripts of the decision of the court. There were five thousand pages of decisions in these hundred and four cases, and in forty

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days we had to read all those opinions.

MCKINZIE: How did this work then by a kind of majority vote?

SNOW: The three members of the Board sat down together and decided what should be done in each case.

MCKINZIE: Was there a general meeting of minds on most cases by the three of you?

SNOW: Yes. We had very little difference of opinion.

MCKINZIE: Did you discuss then your recommendations with John J. McCloy?

SNOW: No. We submitted them in writing to Mr. McCloy.

MCKINZIE: Did you get a chance while you were doing that to discuss with any of the Military Government officials of Germany their views

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about these cases? Were they interested in those cases?

SNOW: No. Mr. Moran interviewed the prisoners themselves, and we talked with counsel for the prisoners. The counsel for the prisoners appeared before us.

MCKINZIE: This would be German lawyers.

SNOW: German lawyers.

MCKINZIE: You yourself, did not then go in and talk to the German prisoners?

SNOW: I did not talk to the prisoners, but I listened to the lawyers.

MCKINZIE: How do you explain the fact that that Board was necessary or desirable?

SNOW: Well, it was the general feeling on the part of Mr. McCloy that the sentences were excessive and some leniency should be shown and the Board

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found that to be so.

MCKINZIE: From a purely legal not political point of view?

SNOW: Purely legal point of view.

MCKINZIE: Could you then describe for the record something of the other board on which you served?

SNOW: The third clemency board that I served on was for Japanese war criminals. That was by appointment of the Secretary of State. The Clemency and Parole Board for Japanese War Criminals, which consisted of Roger Kent, General Counsel for the Secretary of Defense; James V. Bennett, Director of the Federal Bureau of Prisons; and myself, as Chairman. I was still working on that Board when I resigned in '56. I used to go back to Washington for sittings with the Board some time after I retired.

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MCKINZIE: You said that this was appointed by the Secretary of State. Do you recall the circumstances under which that Board was created, or how did you understand the conditions for which it was created?

SNOW: Well, these war criminals were under long sentences of imprisonment and there was a general feeling that they ought to be released as soon as possible. We had to consider what clemency should be exercised by way of parole. Our recommendation was the parole of the prisoners.

MCKINZIE: General Snow, you'll forgive me if this is a naive question, but of course, as we are having our conversation here there is now a difficult legal proceeding going on in Washington, D.C., dealing with the question of loyalty. Very many people committed, apparently, illegal acts in the name of loyalty to their political superiors. I

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am speaking of the Watergate case, of course. When you went back then in these cases of Japanese and German individuals who had committed war crimes, to what extent did you consider that question of simply being loyal to a superior? I know that had been a problem in the original trials. Was it a consideration in these reviews?

SNOW: Oh, I think it was a consideration.

MCKINZIE: That as far as you'd care to comment on that at this point?

SNOW: Yes. The chief problem that we faced was the enormity of the crime. If it was a very serious crime, we didn't grant the parole as readily as we did for a crime of a more ordinary nature.

MCKINZIE: Not to belabor this point, but if the crime were somewhat enormous in nature, but the person was a relatively junior person who apparently was following instructions received

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from a superior, was the fact that this person was loyal, and therefore carried out his instructions, given some weight in your decision?

SNOW: Oh, yes, certainly.

MCKINZIE: Could I ask you to be a little bit philosophic about these clemency boards on which you served? Are they a kind of built in aftermath to every war?

SNOW: They are certainly the necessary aftermath of every war. Feelings run high in the course of the war and the maintenance of discipline is a problem, which has to be borne by the courts-martial -- that's for the first board I sat on. The war criminal problems are of a different nature. There is no question of maintenance of discipline; it is a question of punishment of outrageous acts.

MCKINZIE: Since it was necessary to go back over and sort of redo the results of the war crimes

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trials, do you have any thoughts now, these many years after, about whether or not there should have been those war crimes trials to begin with, or if they should have been conducted in some other manner?

SNOW: Well, I think there is a grave question about the propriety of the victors sitting in judgment on the vanquished as war criminals.

MCKINZIE: Is there some alternative?

SNOW: The only alternative is an international court.

MCKINZIE: Could you tell me something about how you then became connected with the loyalty-security activities? I think those activities in your State Department career consumed the great part of your energy, is that not correct?

SNOW: A very large part of my energy was spent on the Loyalty-Security Board of the State Department from 1947 until 1952. I don't know how I happened to be appointed as Chairman of

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the Loyalty-Security Board, but I served as chairman for the entire history of the Board.

MCKINZIE: Could you just briefly for this record explain what the work of your Board was and how you organized it? To what extent was the organization of it your organization?

SNOW: The organization was entirely mine. We received the reports from the FBI, and also from the Security Division of the State Department. The Security Division of the State Department passed on questions of security simply; and the FBI passed on questions of loyalty exclusively. Whenever an employee had been reviewed by the FBI, or by the Security Division, and the question arose as to either the security or the loyalty of the employee, the file was referred to the Board and the Board had to review it. If we could find no occasion for questions -- and did in a great many cases -- but if we had a question we called in the employee. In order to prosecute for his dismissal, we had

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to have a hearing of the employee. All of this has been explained in my report, which I have given you, to the Secretary.

MCKINZIE: Yes. Now for the record this is a memorandum to the Secretary of State from Conrad E. Snow dated January 8, 1953, and entitled "Report on Loyalty-Security Performance 1947-1952." We could insert this document [See Appendix B] into the record at this point.

SNOW: That would be the best and most accurate way of setting forth the operation of the Board.

MCKINZIE: Okay, very good.

Could you then tell me something about the initial work of that committee; the coming together of the Board; the selection of the other people who were on it? I don't believe that is covered in the memorandum that is now with us.

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SNOW: Well, the other members of the Board were all important officers of the State Department selected by, I assume, the Deputy Under Secretary of State.

MCKINZIE: Did you have preliminary meetings before you began to take cases, to establish general principle and policy?

SNOW: No, I don't think we did. Our first operation was to receive the file and examine it. Each member examined it by himself, and decided what conclusion he would draw from the file. Then we met in groups of three to pass on the files and to hear the employee.

MCKINZIE: This was immediately a very sensitive area in the administration. To what extent did you feel outside pressures?

SNOW: None at all except [Joseph] McCarthy's allegations.

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MCKINZIE: There were none from within the Department.

SNOW: None from within the Department. We were given free rein.

MCKINZIE: You mention McCarthy's allegations and in your report to the Secretary of January 8, 1953 you give a statistical breakdown of the so-called McCarthy cases. Did Senator McCarthy or any member of his committee staff ever come up and talk to you about these cases?

SNOW: No. McCarthy never came to us with any report or any information. As a matter of fact, in one case when McCarthy made a public statement that a State Department employee was associating with a Communist, I went to his office and inquired the name of the Communist he was supposed to be associating with. The reply was that Senator McCarthy had the name on a slip of paper when he made the

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statement but he'd lost the slip.

MCKINZIE: Senator McCarthy was famous for losing those slips of paper, was he not?

SNOW: We never received any assistance from McCarthy whatever, except the names of sixty-one alleged Communists in the State Department, whose files were made available to a select committee chaired by [Millard E] Tydings, a Democrat of Maryland -- Foreign Relations Subcommittee Chairman. That committee had an opportunity to read all the files of the sixty-one cases. Some of the members of the committee did read all the files -- notably Senator [Theodore] Green from Rhode Island. The committee gave the State Department a "clean bill of health" on the entire group of files.

MCKINZIE: I noticed that you mention in your

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report of operations a kind of check on this Loyalty-Security Board, a kind of review committee. I believe it was called the Loyalty Review Board.

SNOW: The Loyalty Review Board of which Seth Richardson was Chairman, and Hiram Bingham afterwards. They were created by the Government, because they had all the departments under them to review decisions of the Loyalty Board. I think they were a creation of the President.

MCKINZIE: They upheld the work of your Board rather uniformly, did they not?

SNOW: Yes. They sent a few cases back to us for re-decision, and they reversed two decisions.

MCKINZIE: Now that some twenty years have passed to what extent was there an internal problem of loyalty?

SNOW: In the State Department there was no internal

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problem of loyalty. The State Department had laid down a very stiff examination before taking an employee on in order to ascertain that he was capable and loyal and secure. For that reason we had, originally, a very few security problems and certainly few loyalty problems. But at the conclusion of the war, a great many groups of employees were shoveled into the State Department from discontinued activities, and these various groups of employees had no previous examination. Consequently, we had shoveled into the State Department a lot of security problems, and those we had to solve. Practically all of them were security problems, rather than loyalty problems.

MCKINZIE: There was at one point the charge that the Boards were not getting complete files - - that the files, somehow, that were going to the Boards had been tampered with by individuals in the State Department. Could you comment on

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that?

SNOW: That was a charge made by Senator McCarthy. After he was told that the Tydings board could see all the files, he then made the charge that the files had been "raped," as he said, which was entirely untrue; the files were entirely intact. They were entirely under my control and I know they had not been tampered with.

MCKINZIE: Were you convinced that the security system surrounding the files was such that the files could not be tampered with?

SNOW: Well, I had made no particular examination of that, but I was satisfied that the Under Secretary of State who had charge of security was performing his duty.

MCKINZIE: Did you have, other than just the supplying of these files, any relations with the Tydings Committee?

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SNOW: No. The Tydings Committee came to where we kept the files and examined them in my presence.

MCKINZIE: Their clerks?

SNOW: No. They came themselves -- members of the Committee. Their clerks did not come.

MCKINZIE: I see. You never had to testify on Capitol Hill.

SNOW: Yes, I had to testify several times on Capitol Hill.

MCKINZIE: Could you describe that please?

SNOW: I had made in the course of events three speeches; one to Nu Beta Epsilon, a fraternity at George Washington University, in October 1951; another to the Harvard Club of Washington, D.C. in November '51; a third to the Federal Club in February '52. These speeches roused the wrath of Senator McCarthy, because in all

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of them I accused Senator McCarthy of making false statements about matters, that he must have known were false. In consequence I was hailed before a committee of which Senator Pat McCarran was Chairman -- a Senate internal security subcommittee -- and subjected to a considerable examination. In the course of that examination Senator McCarran said, "Where did you get the right to revile a Senator of the United States?" And my reply, which was to achieve considerable notoriety, was that I was a citizen of the United States and a holder of public office.

MCKINZIE: What was his response?

SNOW: That shut him up.

MCKINZIE: Senator McCarran did not let those kind of issues drop. Did he take bits and pieces of the speeches that you had made and quote them to you for your comment?

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SNOW: Well, he attacked the speeches -- the reasons for making them, whether or not I was paid to make them (which I wasn't), and whether they were Department inspired and so forth.

MCKINZIE: Oh, I see. He was concerned about whether you represented the Department of State in making these statements.

SNOW: Yes. I told Senator McCarthy to his face at that hearing that he was making statements that were untrue and he knew they were untrue, and I referred to his "two hundred and five known Communists in the State Department" and his statement that the files had been raped.

MCKINZIE: At that time did you have any sense of the kind of snowballing psychological effect of Senator McCarthy's charges? That it seemed to, at a certain point, begin to feed on itself and the truth of the matter didn't seem to make so much difference. Some historians are now

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saying that the important thing was to keep the hysteria going by talking about more and more breaches in security. To what extent did you have this feeling that he had sort of sparked a mass hysteria or something like that? Is that a good word to call it?

SNOW: Well, the real reason for the effect of the McCarthy statements lay with the press. Every time McCarthy opened his mouth he got a front page assignment of the daily press, and so it did snowball. A few of the columnists sided with McCarthy. I had an occasional combat with a columnist.

MCKINZIE: Do you recall any in particular?

SNOW: Yes, I have the information here. I have the clippings if you want them.

MCKINZIE: Yes, indeed, I'd be pleased. [Copies are now on file in the Truman Library] If we can, then, we'll go back to the Far Eastern Commission at this point.

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SNOW: One of the national representatives of the Far Eastern Commission was Rear Adm. [S.S.] Ramishvili of the U.S.S.R., who was a very personable representative and cooperated very well with the Far Eastern Commission during the entire period of his service. Along the latter part of his service the Russians sent in an observer to sit and observe him, and later he was removed. For the benefit of the observer, General [Frank A.] McCoy, Chairman of the Far Eastern Commission, indulged in a terrible diatribe against Ramishvili, accusing him of non-cooperation which was entirely unjustified and was given entirely for effect; but it had no result. Ramishvili was removed by the Russians and we never heard of him again. The assumption being that he was liquidated.

MCKINZIE: Of course the Russians always believed that the Far Eastern Commission ought to be stronger, because they had so little to do with the administration of occupied Japan. Did this Russian delegate ever present papers which were seriously discussed about any kind of change?

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SNOW: Not that I recall. His successor, [Alexander S.] Panyushkin, was appointed by the U.S.S.R. and was much less cooperative.

MCKINZIE: Do you think that the Far Eastern Commission really served any purpose, other than providing a kind of forum for representatives of, I think, eleven governments to discuss the

problems of the Far East? Did it have any demonstrable effect on the course of events in occupied Japan?

SNOW: Well, I can't testify very much as to that, except that we had constant difficulty reconciling MacArthur's acts with the desires of the Commission.

MCKINZIE: Would it be fair to say that the Commission did the bending?

SNOW: I think they did. The American delegation to the commission was Maj. Gen. McCoy, as Chairman; Dr. [George H.] Blakeslee; [Nelson] Johnson, ex-Ambassador to China; Frank [Frank A., Jr.]

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Schuler; and Max [Maxwell M.] Hamilton, for all of whom I was the counsel.

MCKINZIE: Did these men have other responsibilities in the Department as well?

SNOW: I think some of them did -- not all of them.

MCKINZIE: General Snow, are there other events on the list that we should discuss?

SNOW: Oh. I failed to tell you of this -- the Loyalty-Security Board was the first; the Far Eastern Commission, the second; the Advisory Board on Clemency for War Criminals which sat in Munich, Germany for forty days in 1950, the third, and the Status of Forces Treaty which I negotiated in London in 1951, which we haven't discussed.

MCKINZIE: No. I wonder if you can give a kind of narrative account of that, please?

SNOW: Well, I was sent in 1951 (January or February) to London to negotiate the Status of Forces Treaty.

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I achieved the major part of the negotiations, but it was later completed by another representative. But there was one part of that for which I was particularly responsible.

One of the vital questions before the nations that were sitting on the Status of Forces Treaty was the jurisdiction of the court of the receiving state and the sending state. It was provided in the agreement which we reached that the military authorities of the sending state should have the right to exercise all criminal and disciplinary jurisdiction conferred on them by the law of the sending state over all persons subject to the military law of that state. It was also provided that the authorities of the receiving state should have jurisdiction over the members of the force or civilian component with respect to offenses committed within the territory of the receiving state. They were punishable by the law of that state. The result was that the authorities of the sending

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state and the authorities of the receiving state had concurrent jurisdiction.

MCKINZIE: This was a particular concern of yours?

SNOW: And that was a particular concern of mine and by my recommendation it was resolved.

MCKINZIE: What had been the contending positions of the other delegates?

SNOW: It was a grave question how we could reconcile these two jurisdictions. We reconciled it by providing that in cases where the right to exercise the jurisdiction is concurrent, the military authorities of the sending state should have the primary right to exercise jurisdiction in relation to offenses solely against the property and security of that state; and also as to offenses arising out of any act or omission done in the performance of official duty. With all other offenses the receiving state should have the primary right

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to exercise jurisdiction. This distinction between the primary right was my suggestion, and it gave to the sending state -- which we were largely -- primary jurisdiction in offenses against the property or security of the United States, and also in offenses arising out of any act or omission done in the performance of official duties, which was the case of the sentry accidentally shooting somebody.

MCKINZIE: But in the case of the off duty sentry robbing a shop?

SNOW: Then the primary right would be in the receiving state.

MCKINZIE: Do you recall the discussions about resolving that issue?

SNOW: No, I don't recall the discussions particularly. I was warmly supported by the United Kingdom representative, and we finally arrived at that conclusion.

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MCKINZIE: How did you happen to be selected to negotiate?

SNOW: I don't know. I was sent alone, with no assistants whatever. They had drafted the preliminary agreement, which I was given to attempt to get enacted, but I didn't follow it very closely.

MCKINZIE: This may be a naive question, but when you have a preliminary agreement and you don't follow it very closely, with whom do you check when you make the changes?

SNOW: I checked by wire with the authorities in the State Department continuously throughout my negotiations.

MCKINZIE: But, nonetheless, a great deal of your own judgment is reflected in that Status of Forces Treaty.

SNOW: Yes.

MCKINZIE: Did you then sign?

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SNOW: No. The agreement was not complete. There were some sections of it which were not completed, particularly the commercial sections. They were afterwards completed.

MCKINZIE: One of the general questions at the time that treaty was negotiated was the extent to which the European powers were entirely serious about expanding their military establishment, and in the course of negotiating the treaty perhaps one can get a feel for those who were trying to protect themselves -- that is to simply make a paper agreement -- and those who were really concerned about fulfilling the general thrust of previous discussions. The thrust of previous discussions had quite clearly been toward vast increases in the size of the NATO nations. Do you recall any particular signatory that was different to deal with -- that seemed to be a bit on the defensive side?

SNOW: No. I was looking for the names of the

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signatories. It was signed by the United States and Canada, who were chiefly the sending states - - and Belgium, Denmark (I think Iceland was not present), Italy, Luxembourg, and the Netherlands, and Norway, and Portugal, and Great Britain, they were the signatories.

MCKINZIE: This was done in London?

SNOW: It was done in London.

MCKINZIE: This again may be a naive question. Do you recall that trip, was it done in a kind of crisis situation or was it genial?

SNOW: Very genial. We had the most excellent relations. It was done largely in English, although we did talk a little French. It was a very cold, dismal time in London, with extreme meat shortages.

MCKINZIE: What did they give you to eat?

SNOW: Partridge.

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MCKINZIE: What else have we missed on the list that you prepared?

SNOW: I think the fifth thing is the Clemency and Parole Board for Japanese War Criminals, which we have discussed. Those are the chief items that I have down here.

MCKINZIE: Okay. Let me ask, then, a general question. You know, you had a distinguished military career, and a distinguished career in law, and you were in the State Department at a time when the role of the United States changed in world affairs; that is when it came from a not totally isolationist, but a relatively isolationist country before the Second World War and quite obviously never returned to that stance after the war. I now seek a kind of retrospective judgment on your part of the general response to the crises of the postwar period. You were, it seems to me, in a position to be able to judge some of those from a personal point of view particularly with the Far Eastern Commission;

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and by being overseas a number of times in commissions, you had contact with people in high places. Could I get you to respond in general to Truman administration foreign policy?

SNOW: Well, as far as I was in a position to judge, the Truman foreign policy was sincere, devoted, and by and large successful.

MCKINZIE: The response to the Soviet challenge you felt was as adequate as could have been under the circumstances of those time?

SNOW: Yes. I remember as Assistant Legal Advisor of Far Eastern Affairs advising against sending any military personnel into the Far East, particularly Indochina I was convinced that we were legally bound not to send military personnel into Indochina.

MCKINZIE: Legally bound?

SNOW: By our commitments -- international commitments.

[44]

MCKINZIE: I see.

Well General Snow, I thank you very much. I think this might be a good point for us to break off here, unless we have some other topic.

SNOW: No, I have nothing to add.

MCKINZIE: Thank you.

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APPENDIX A

Extract from letter written by Conrad E. Snow, dated October 23, 1950:

You ask for a brief outline of my official connections during the past few years in the Government. In November 1940, I was personally requested by Robert P. Patterson, then Assistant Secretary of War, to come to Washington to accept a commission as Lieutenant Colonel in the Signal Corps, for the purpose of becoming Legal Advisor to the Chief Signal Officer. The Signal Corps as you doubtless know is both a combat and procurement service of the Army; in fact the Signal Corps procured \$10 billion worth of communications equipment in four years. I organized the Legal Division of the Signal Corps, and acted as its Director until October, 1945, by which time it consisted of 75 officers and 150 civilians. WE handled not only the strictly legal problems of the Corps, but also the labor troubles and patent problems as well, and had officers in 12 cities. For my work with the Signal Corps I was promoted to Colonel and was decorated with the Legion of Merit.

In October, 1945 I was transferred to the Office of the Under Secretary of War, then Mr. Royall, and was put in charge of Clemency. In this connection I served as a member of the 5-man Clemency Board, known familiarly as the Roberts Board because its chairman was the former Supreme Court Justice Owen J. Roberts. In nine months this Board reviewed the cases of 22,500 American soldiers who were in confinement under sentence of courts martial and recommended clemency in 85 percent of the cases. During this time I was promoted to Brigadier General in the General Staff Corps.

On completion of this work on July 1, 1946, I left the Army, and in August transferred to the Department of State on the recommendation of Secretary of War Patterson to Secretary of State Byrnes. Here I became an Assistant Legal Adviser in the Office of the Legal Adviser, which position I have held to the present. From 1946 until 1950 I was known as Assistant Legal Adviser for Political Affairs, with the function of giving legal advice in connection with political affairs over the whole world. Particularly, however, I served as legal adviser to the American member of the Far Eastern Commission, Major General McCloy. Following the recent reorganization of the State Department, which involved the creation of an Assistant Secretary for each of the great geographic divisions of the world, the Legal Office was reorganized on parallel lines in June of this year, and I was made Assistant Legal Advisor for Far Eastern Affairs, with the specific function of giving legal advice to the Bureau of Far Eastern Affairs under Assistant Secretary Rusk.

I have an additional function in the State Department. I was appointed Chairman of the Loyalty Security Board by Secretary Marshall in 1947 on the organization of that Board, and have served continuously in that position since.

APPENDIX B

January 8, 1953

The Secretary

Conrad E. Snow,
Chairman, Loyalty Security Board

Report on Loyalty Security Performance – 1947-1952

1. Establishment and Authority

The Loyalty Security Board of the State Department was set up by Secretary Marshall, on June 9, 1947, as the Personnel Security Board. This was six months before the President's Loyalty Order (Executive Order 9835, March 21, 1947) was implemented by the issuance of directives by the Loyalty Review Board of the Civil Service Commission. During this six months the Board made 10 adverse decision, basing its action on the McCarran Rider to the Appropriation Act, which gave to the Secretary of State the power of summary dismissal of employees, "whenever he shall deem it necessary or advisable in the interest of the United States." After the President's Loyalty Program was put into effect, on December 17, 1947, the Department's Board was re-named the Loyalty Security Board, under the direction of the Loyalty Review Board, but still continued to administer security cases, in which no loyalty issue was raised, under the authority of the McCarran Roder.

2. Personnel and Office

The original Board consisted of three members, including the undersigned as Chairman. The present Board consists of 28 members with in the Department and 13 members stationed in Germany. There are 41 State Department officers who at one time or another over the five years of its existence have served as members of the Board, but who, by reason of resignation, or of transfer of station or function, have become unavailable, and are no longer members. This makes 82 the number of State Department officers who at one time or another have served on the Board. The Chairman is the only member who has served throughout the period. The members have all been appointed by the Secretary acting through the Deputy Under Secretary of Administration and have been high-level officers of the Department. None of them have given full time to the Board, and they sit on cases in panels of three. The Chairman frequently sits on the panel, but by no means always; he has probably sat on four-fifths of the cases.

The Board was originally served by a part-time counsel. In August, 1950, however the present full-time counsel, John W. Sipes, was substituted, and in June, 1951, an assistant full-time counsel, Lawson A. Moyer, Jr., was added. These counsel administer the office, draft

interrogatories, write letters of charges, prepare cases for hearing, and assist in the hearings. The Board has an able secretarial staff, and occupies a dignified and convenient suite of rooms in New State, including two hearing rooms and five offices.

3. Function of the Board

The Board receives investigative reports of full field investigations made by the Federal Bureau of Investigation in loyalty cases, and of such investigations made by the Security Division of the Department in cases in which security alone is involved. These reports are submitted to panels of three and are read and considered by the designated panel. Since the files are objective and reflect all the information gathered, whether favorable or unfavorable, cases may be decided favorably to the employee on the information in the file alone. If more information is desired the panel may request further investigation by the FBI or by the Security Division, or it may address a written interrogatory to the employee and receive his sworn reply. In case the panel is still in doubt it must prefer charges and give the employee a hearing before it can recommend dismissal on matters relating to either loyalty or security. It should be noted that security is an issue in all cases, but the issue of loyalty arises only on a full field investigation by the FBI. To an adverse decision of the panel there is appeal to the Secretary of State in all cases, and a further appeal to the Loyalty Review Board in loyalty cases. All decisions in which loyalty is an issue, whether favorable or unfavorable to the employee, are submitted to the Loyalty Review Board for post-audit. If the Review Board disagrees with a favorable decision, it may, under its regulations, take over the case itself, re-hear the employee, enter its own findings and make an advisory recommendation to the Secretary, which in effect may sustain or reverse the Loyalty Security Board.

4. Volume of Work - Adverse Decision

From its establishment through December 15, 1952, almost exactly five years since the implementation of the Loyalty Program, the Loyalty Security Board has received 684 loyalty cases, head count, and 61 cases involving security only, or a total of 745 cases, and has disposed of all but 100 loyalty cases and 10 security cases. Since many cases are considered more than once, the total of decisions made by the Board, case count, is much larger, 958 to be exact. During the course of this large volume of work, the Board has issued 285 interrogatories to employees under investigation, and has held interrogatories to employees under investigation, and has held 97 hearings on charges. In 77 cases the Board has requested further investigation by the Federal Bureau of Investigation.

There has been some public criticism of the Board by persons unacquainted with its work. Unfortunately unfamiliarity with the work of the Board at one time extended even to some members of the Review Board, with the consequence that some remarks by one member of that Board, intended for its ears alone, and not based on fact, were abstracted from its records and published abroad. It is the understanding of the Chairman that the Review Board is presently well satisfied with the work of the Loyalty Security Board. At any rate, out of 575 post-audits of the Loyalty Security Board decisions, the Review Board remanded but 19 cases and has reversed the State Department Board in but two instances.

As a matter of fact, since its inception the Loyalty Security Board has made 30 adverse decisions, three on grounds relating to loyalty, 15 on grounds relating to security but in cases in which loyalty was in issue, and 12 in cases in which only security was involved. Some comment may be required as to the small proportion of cases in which disloyalty was found. This is affected by at least three factors: (1) The Department had its initial housecleaning in 1947, before the Loyalty Program was set up. The 10 adverse decisions of the Board during this period have to be classed as security decisions, because there was no Loyalty Program in effect. Since these were the outstanding bad cases of the Department, at least some of these decisions would probably have been based on loyalty, had the Loyalty Program been then in operation. Similar cases in other Departments of the Government would have been entered in the loyalty column.

(2) From time to time and especially during 1948, employees, against whom charges were serious, have resigned prior to a decision by the Board. During the five years the Board has lost jurisdiction of 51 cases, by separation after it had received the case but prior to decision. It is impossible to say how many of these cases would have led to adverse loyalty decisions had the Board been able to finish its work. In at least 20 of these cases charges and hearing had been voted by the Board.

(3) The original standard of judgment in loyalty cases was quite strict. The Board was not permitted to find disloyalty unless "on all the evidence reasonable grounds exist for belief that the person involved is disloyal to the Government of the United States". By Executive Order 10241, April 28, 1951, the President changed the standard so that an employee could be removed if "on all the evidence there is a reasonable doubt as to the loyalty of the person involved to the Government of the United States". Since from the beginning the Loyalty Security Board has applied the standard of reasonable doubt to the issue of security, it was, prior to April 28, 1951, much easier to find security risk than disloyalty. Promptly on the change in the standard, however, the Board found adversely on grounds relating to loyalty in three cases. There is presently no difference between the standard applied to loyalty and that applied to security. In either case if there is a reasonable doubt, the Department is given the benefit of the doubt.

5. Product of the Board – "McCarthy Cases"

684 employees of the Department of State have been given a "full field investigation" by the Federal Bureau of Investigation and processed under the loyalty program. 584 of these have been passed before a panel of the Loyalty Security Board, and all but 18 have been "cleared" as to both loyalty and security. Many of them have been cleared more than once: Some of them have been reconsidered under the new standard; some of them have been reconsidered owing to supplemental information received from the Federal Bureau of Investigation; and 19 of them have been reconsidered on remand from the Review Board for further processing. In only four cases has the Review Board exercised its power to take over the case, hold a hearing, and decide the case for itself; in two of these cases the Review Board sustained the Loyalty Security Board, and in two of them it reversed the Board, the John S. Service and the John Carter Vincent cases.

In February, 1950, Senator Joseph M. McCarthy stated publicly that there were 205 known Communists in the State Department. Subsequently, on February 20, 1950, in the Senate of the United States, he gave a list of 80 persons, 42 of whom were then, or subsequently, in the

employ of the Department. He afterward added names, so that in all there are now 61 persons “loyal to the Communist Party”. In 8 of these cases no loyalty issue ever arose in the Department, in that the individuals were favorably processed as to loyalty by the FBI, who, finding no disloyal data, returned the names to the Department without full field investigation and submission to the Board. Of the remaining 53, 34 had been already cleared by the Loyalty Security Board (and 27 of these cases post-audited by the Loyalty Review Board) before the Senator spoke. Since then, six of the named persons have resigned and one has died (all after clearance and favorable post-audit). All of the remaining 28 cases have been reconsidered under the new standard, and with two exceptions have been cleared by the Loyalty Security Board (24 have been finally and favorably post-audited by the Review Board). In two cases only, as stated above, has the favorable decision of the Loyalty Security Board been reversed by the Review Board.

In resume, of the 61 State Department employees named by Senator McCarthy, only four have been rated ineligible for employment, two by the Loyalty Security Board – Esther Brunauer and Marcia R. Harrison, both on security grounds – and two by the Loyalty Review Board – John S. Service and John Carter Vincent, both on loyalty grounds.

The Loyalty Security Board has from the beginning considered itself to be a judicial body, and has endeavored to perform its duty honestly with due regard to the evidence, with fairness to the employee, and with proper appreciation of the gravity of the issues involved to the Department and to the Country. It should not be overlooked that the Board has had no jurisdiction to pass on the suitability of employees, as distinguished from their loyalty or security.

6. Attachments

For your information there are attached:

- (a) A year-by-year analysis of the adjudication of cases by the Loyalty Security Board.
- (b) A step-by-step history of the 30 adverse decisions of the Loyalty Security Board.
- (c) A step-by-step history of the 61 cases named by Senator McCarthy who were employed at the time of his charges.

All of the above exhibits speak as of December 15, 1952.