

Oral History Interview
with
TOM C. CLARK

Attorney General of the United States, 1945-49; Associate Justice of the United States Supreme Court, 1949-67.

Washington, D.C.
October 17, 1972
by Jerry N. Hess, Harry S. Truman Library

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HESS: Mr. Justice to begin this morning, what are your earliest recollections of Mr. Truman?

CLARK: Well I'd say when he first started his investigations as chairman of the Senate's -- as I remember he had introduced a resolution in the Senate to create a committee on national defense. As you know, there had been a step up in our defense spending, the establishment of military bases, increase in personnel in the armed forces and procurement of materiel. I think the idea that Mr. Truman projected was

that incident to this policy we would have some problems in procurement with reference to anti-trust violations as well as, we hope not, but perhaps with reference to violations of other criminal statutes. And therefore, the Senate created this committee, which was composed of Mr. Truman, as chairman and Senators [Sherman] Minton, and Harold Burton, both of whom later came to the Supreme Court -- one a Democrat and the other Republican. This committee would go from place to place to conduct hearings, quite often here in Washington. The committee named a general counsel, Hugh Fulton who served it for several years. Prior to the time the Truman Committee was established there had been created in the Department of Justice a War Fraud Unit, which would monitor the hearings of the Truman Committee. At that time the Department would assign to one of its divisions the function of

[3]

following up on any findings the Truman Committee or other congressional committees would refer to the Attorney General. If the Truman Committee, for example, thought some matter it uncovered might be a violation of the law and referred it to the Attorney General we would be ready to go. Quite often during that period committees referred matters to the Department. And rather than waiting until we got references of that type we thought it might be better if we had had a liaison with the Committee. As head of the War Fraud Section I used to go up to see Mr. Truman quite often beginning about 1942 I guess. When did he come to the Senate, '37?

HESS: He was elected in '34.

CLARK: '34.

[4]

HESS: He came to Washington in '35, and the Truman Committee -- that was the Senate Committee to Investigate the National Defense Program -- was started in 1941.

CLARK: Well that must have been at the time the Committee started then.

HESS: Were you the official liaison of the Department?

CLARK: Well I happened to be Chief of the War Fraud Section, so I just took it upon myself.

HESS: You appointed yourself officially.

CLARK: I don't know whether I was official or not. But quite often we would get materials that were not sufficiently in detail so we could use them for the purposes of a grand jury for example, and so I would quite often go up and

[5]

go over the materials with Hugh Fulton and Mr. Truman, in an effort to try to get them perhaps to go into the problem somewhat deeper; and, in that way, we might make sure violations of law

were detected and prosecuted more quickly. .In the Department at that time the FBI had so many investigations that there were delays. We tried to avoid this delay as much as we could since the quicker we could develop these cases the more effective they were in the procurement program.

HESS: How would you evaluate the help that Mr. Truman and Hugh Fulton gave you, when you would point out things that needed to be clarified and expanded?

CLARK: Oh, we worked hand in glove. There was tremendous cooperation. Mr. Truman not only inspired it but I had asked for it. Mr. Fulton

[6]

was very cooperative. He had a good staff. And Mr. Truman also, of course, had his office staff. Quite often it would be of some assistance, although the heavy lifting of the Truman Committee was done through the special staff of the Committee.

HESS: Who do you recall that you may have worked with on the Truman Committee staff? Matthew Connelly was on Mr. Truman's staff. Do you recall Mr. Connelly?

CLARK: Oh yes. I saw Connelly and Fulton and there was a fellow there that later ran for some office up in New York, I've forgotten his name, he was quite a good criminal lawyer.

HESS: Do you remember any specific cases? Two of the major cases dealt with the Curtiss-Wright airplane engines and the question of the pipeline

[7]

that was going to run from the United States up through Alaska. There were several other major cases, do you remember any?

CLARK: Oh, they had quite a few. Well the one I remember more vividly than any other is the one that involved copper and had to do with the Anaconda Company. It was a fantastic case, you would not believe it occurred. The Committee uncovered the whole thing and then we did some supplemental work on it.

It seems that the way it came to the attention of the Committee was that the Russians filed some objection to the field wire that we were furnishing them under lend-lease. It turned out that we gave it to them, and some of it was defective. There was also what they call a degaussing cable that would be placed around a ship to set up a magnetic

[8]

field and deflect a torpedo away from the ship. It was not involved in the Anaconda case. We hadn't had any particular reports on it, although in finding out about the field wire, the Committee went into that also and developed a case on it also.

But getting back to the Anaconda case, it manufactured field wire. They were required to test this wire in vats somewhat like a swimming pool. It would be in enormous spools of wire like you

might see the telephone company using when they place telephone cables underground. The spool of wire, which is, oh, eight feet high, seven or eight feet high, comes in big rolls. At the Anaconda plants the company would take these spools of field wire and immerse them in this water in order to test them under conditions that they thought might be encountered in the field. The Government installed some magnetic

[9]

calculators in tables at the side of the vat. And the Anaconda people sat on one side, and the Government Bureau of Standards, I think it was, on the other. And whenever the needle indicated that the wire being tested was below specifications, well the Anaconda people had these buttons under the table that they could press and make the needle come to a higher level so that the wire would pass the test. Indeed we found one or two spools of wire that had been in the water so long that a sort of water scum had formed on the spools and you know how wood will get after its been in the water a while. We found out that in some instances they would never even take the time to change the spools.

Then the other case was the case involving degaussing cable, it was in New Jersey. It was an antitrust case. It involved several of

[10]

the companies that were making this degaussing cable. And then we had a case against the steel company. I remember going out to Pittsburgh on it. Well we went all over the United States. The Committee did a tremendous job on it, and of course it brought Senator Truman notice with the public because originally it was aimed at defense, and I think the original investigations were procurement of military cantonments, bases and things like that. Then it went into materiel and that was a rich source of cases. The Committee was quite busy. They made quite a few investigations and held hearings all over the country.

HESS: When you would go up to see him, did Mr. Truman ever tell you what he thought the value of the Committee was? What he saw as the real value of the Truman Committee?

[11]

CLARK: Well I think more than anything the deterrent value. Its impact would be much greater than anything an individual might develop; the fact that he went around the country conducting hearings on various cases would, of course, alert people that might violate the law and of course, they would not do it as readily. The Committee was a "watchdog" one might say. Some people thought they could get by with violating the law; we had quite a large number of cases. I'd say the Truman Committee was our primary source of information. And we would then use young lawyers on our staff. I'd have three or four young lawyers assigned to one older lawyer. If we had sufficient information like on the Anaconda or the degaussing cable case up in New Jersey we would call the grand jury and bring the witnesses in before it.

[12]

Of course, we might have to round it out some, get additional information, but that would save the FBI having to conduct a full scale investigation. So as a consequence, I would say, that his Committee was the most effective one that I had dealt with. I was in contact with quite a few in the twelve years I was in the Department of Justice.

HESS: Mr. Truman has stated in his *Memoirs*, and he stated at the time that he did not want to hamper the war effort in the same way that the Committee on the Conduct of the War had done during the Civil War. Did you ever hear him talk about that?

CLARK: Yes I did. Of course, Mr. Truman was an authority on the Civil War, I don't know whether you know it or not. Many, many

[13]

times I've talked with him about Civil War battles and he knew practically every general through his readings.

Yes he did, he told me of the problems that arose during the Civil War and how there was some interference, perhaps from a standpoint of jealousy on the part of some of the Committees or a tendency to cover up on the part of procurement officials. But we had nothing of that stripe at all. It was a very cooperative group; indeed, the Defense Department, well we didn't have a Defense Department then, the War Department was most cooperative. The War Department and the Navy Department were very cooperative in all of these cases. Sometimes they would award an "E" for excellence to some procurement manufacturer. Not when we found anything like we did at Anaconda; but sometimes

[14]

when we would return antitrust indictments and the War Production Board would certify that a prosecution would interfere with the war effort and would by statute be obliged not to proceed and sometimes the military would award an "E" to the people which was somewhat awkward; but generally Governmental agencies were very cooperative; with reference to President Truman's Committee they didn't deal too much with antitrust investigations. Might be in the periphery of it; or run across some lead that required following up. The agencies cooperated very closely with Mr. Truman. I would say that aside from the great impact for good that it had on our procurement policies the Committee saved billions of dollars for the Government -- we were spending in the billions then.

[15]

HESS: There was a time when Mr. Truman's operatives found out about a great deal of money that was being spent in Hanford, Washington and he was asked to not press his investigation any further, of course this was the development of the atomic bomb. Do you recall anything about that?

CLARK: Yes. I remember talking some about it and later on why General [Leslie R.] Groves came over to see me. He was in charge of the development of the atomic bomb. One of the radio newscasters in Chicago had heard about the bomb somehow. He had made some reference to it in a broadcast. General Groves came to me seeking a criminal prosecution on it; but when I told him that we would have to have a public trial on any indictment returned he dropped the whole project. He didn't want...

[16]

HESS: A public trial.

CLARK: ...any publicity that would reveal the existence of the bomb. They kept Mr. Truman, of course, well posted on the atomic bomb and I'm sure that he knew all about it, although you'd never know it, he'd never say anything about it. I am satisfied that he wouldn't push an investigation of that type to the point where it would cause any problem to General Groves' project.

HESS: What would be your evaluation on Mr. Truman's handling of the Truman Committee in relation to his receiving the nomination for the vice-presidential spot in 1944? Just how important to his receiving the nomination was his handling of the Truman Committee?

CLARK: Well I would say, of course, that it brought

[17]

him notice in the press, the name "Truman" became a household word. Indeed his name assumed the title of the Committee, instead of it being called the statutory title it was always referred to as the Truman Committee. The American people always have to tag things, you know...

HESS: They have to label things, don't they?

CLARK: They always label things, so it soon assumed his name, which I'm sure was very helpful to him politically.

I remember he talked to me one time about the atomic bomb. Especially about his meeting with Stalin. He said that he was sure that Stalin didn't know anything about the atomic bomb. And he doubted if he got through to him the monstrous impact of it. At their meeting at Potsdam, I believe it was, President

[18]

Truman had indicated to him that he was thinking of dropping one of these instruments on the Japanese. He, Mr. Stalin, didn't seem to react in a way that indicated to Mr. Truman that he even knew the bomb was in the making, which is amazing. Many people, including Mr. J. Edgar Hoover, thought the Russians not only knew of the bomb but had its secret. The effectiveness of

the security -- in which Mr. Truman had no little part -- was complete. It was a powder keg and to be able to keep as good a secret as it was, particularly in Washington, is tremendous.

HESS: Did you attend the Democratic National Convention at Chicago in 1944?

CLARK: Yes I did. I was there. When I went I thought we would -- in fact Mr. Truman had talked to me about it -- nominate Sam Rayburn for Vice

[19]

President and so I went to assist. Bob [Robert E.] Hannegan, a close friend of mine, and...

HESS: He was in charge of the Democratic National Committee at that time.

CLARK: Yes he was. He had a place there at the Blackstone I believe is the hotel. Mr. Truman was there too. And I remember Mr. Hannegan asking me if I would call down to Mr. Rayburn and find out whether or not we could get him to come to the convention. Mr. Rayburn had an opponent, he was running for the House again; he had to run every two years and his opponent was a fellow named [G. E.] Morris as I remember; he was a State senator who had a four-year term; this was his off year. So it appears that every time that he had an off year he ran against Mr. Rayburn. I suppose he did that in

[20]

order to keep his name before the public, because he didn't have much chance of defeating Mr. Rayburn. As you know the Speaker was one who thought that his duty was to make certain that he took care of his constituents. So he told me that he couldn't come up there.

There was a big problem anyway with reference to Mr. Rayburn; the Texas delegation to the Convention was not sympathetic to him. I had gone around to its headquarters two or three times trying to see how they felt and, being Assistant Attorney General, they would talk nice to me. They knew who I was, of course, and that I was close to Mr. Rayburn. Hence I learned little. And so I sent a friend from Illinois around there, a friend of mine...

HESS: He got a different story.

[21]

CLARK: ...and he got the real truth. And I told Bob about it...

HESS: What was the truth? The members of the Texas delegation were against Mr. Rayburn?

CLARK: They were against Mr. Rayburn, it's amazing.

HESS: Why?

CLARK: Even before I asked him to come up there, they were against him. We never did have a majority vote on it; I doubt if we would have been able to get a vote that was favorable.

HESS: Did Mr. Rayburn express any views on whether or not he would have liked to have had the nomination for Vice President?

CLARK: Well he was for Mr. Truman.

HESS: He was for Mr. Truman.

[22]

CLARK: He wasn't for himself. He said he thought that Mr. Truman would be the one. Mr. Rayburn was one to think that being the Speaker was quite a high position.

HESS: Which it was, especially when he held it.

CLARK: He had seen his old friend and legislative partner Mr. [John Nance] Garner go into the Vice Presidency and be tucked away; and so I don't think he relished it particularly. He was very fond, as you know, of Mr. Truman and had been ever since Mr. Truman came here, and so after our telephone talk we began to work for Mr. Truman. And I remember well the vice-presidential nomination depended upon who Mr. Roosevelt would support, and we had been working on that for some time. As you know, Mr. [Henry A.] Wallace had unfortunately been given a tinge that

[23]

was not very popular at the time, sort of you might say leftist; some people said Communist, but I don't think it was anything like that.

Wallace was a very able and honorable man, had served well during Mr. Roosevelt's terms, not only as the Secretary but as the Vice President and had very fine connections. Indeed his father was Secretary of Agriculture also. However, people began to point up to Mr. Roosevelt the problem that he might have, after all he had already been elected President three times, so that he ought to get a running mate, particularly in the war situation, who would not have that tinge.

HESS: What seemed to be his attitude?

CLARK: Well, Mr. Roosevelt didn't express himself, he may have to Bob, but not to me. And we

[24]

didn't get any word until he was on a train going out West and...

HESS: He stopped in Chicago.

CLARK: He stopped, yes, but not in Chicago -- further West. And I understand Miss [Marguerite A.] LeHand or Miss Tully wrote this out and some people say that Mr. Truman's name was not first on it but it was. And this talk got...

HESS: Was it first originally?

CLARK: Well this talk about his name was not being first originally is...

HESS: It was Justice [William O.] Douglas.

CLARK: ...is new talk -- new talk to me. I never heard of two documents. And Bob Hannegan was...

[25]

HESS: Justice Douglas being the other man.

CLARK: Bob Hannegan's a very close friend of mine and we worked hand in glove on political matters, and I'm -- I was there, I was satisfied that he would have told me if it had been anything like that, because he knew that I also was close to Mr. Douglas. And he never said a word about it. The tale is supposed to be that Bob sent it back and asked her to type Mr. Truman's name first. But I don't think that happened, I think his name was there originally.

HESS: You think Mr. Truman's name was first on the Truman-Douglas letter?

CLARK: I saw the document. The one that I saw had his name on it as number one and I'm satisfied it was the genuine document. I know

[26]

it was the only one Bob mentioned. I don't think there was any other one. I think that Mr. Roosevelt had -- as you know he was a very forceful person -- tight control over the presidential office. He played his cards pretty close to his chest and I don't think he took up too many matters with Mr. Wallace.

HESS: Did you feel that President Roosevelt took as much of an interest in who had the second place on the ticket in 1944 as he did in 1940? What I have reference to is in 1940 he sent a letter to the Convention saying, "I want this man Henry Wallace, as my Vice President and if I don't get him I won't run." In 1944 we don't have this. He did write a letter in which he said that if he were a delegate he would vote for Henry Wallace, but nothing as definite. What's your view on Mr. Roosevelt's view of who was to be on the ticket with him?

[27]

CLARK: Well I rather think that Mr. Roosevelt didn't give the impetus or attach the gravity to it that some of the political minds, like Mr. Hannegan did and as a consequence I don't think

President Roosevelt thought it was necessary to make a change. As a matter of fact, it may be that he was being a little devious about it, I don't know. I know we had some problems. I know Senator [Samuel D.] Jackson, I believe it was Senator Jackson, anyway he was from Indiana, was the chairman, temporary chairman, and when it looked like Wallace was going to try to pull off his nomination late one night Bob got the Convention to finally adjourn until the next day.

HESS: One of my earliest political memories is listening to the radio and to the crowds in the galleries shouting, "We want Wallace."

[28]

CLARK: Yes. Yes. Well I was there. There were shouts and the Senator pounded the gavel and said, "We adjourn." But I don't know as anything would have happened that night anyway, I really don't know. I think the situation was that Mr. Truman being the number one on Mr. Roosevelt's list, and having the standing that he did, which was very strong, that he had the inside track for it from the very beginning. He sort of held back. He told me that he thought Sam would be great. And I don't think that he -- in fact I know that Mr. Truman didn't push his candidacy at the outset.

HESS: Do you recall that James Byrnes had phoned to Independence and asked Mr. Truman to put his, Byrnes's, name in nomination and Mr. Truman had agreed to?

[29]

CLARK: Yes. Yes I do.

HESS: So Mr. Byrnes was also an active candidate.

CLARK: Yes.

HESS: In the *Memoirs*, Mr. Truman says he thinks Byrnes knew that his, Mr. Truman's, name was under consideration when he phoned, and that his call was an effort to try to cut the ground out from under him. Do you think that there's any likelihood of that?

CLARK: Could have been -- could have been. From what I've known later of Mr. Byrnes activity at that time, it is altogether probable.

HESS: Do you recall anything in particular of Mr. Truman's efforts in the campaign of 1944?

[30]

CLARK: Oh yes. He did a great job. He went around the country and I remember I made quite a few talks. At that time I was Assistant Attorney General under Mr. Roosevelt. I was appointed -- well let's see, about February '43 I guess it was, along in there. So we had a packet that Mr. Truman and Bob Hannegan and the Committee got up that we would send out for speakers to use. And it was quite an effective resumé of most of the accomplishments of the Roosevelt

administration. And of course, Mr. Truman as you well know is quite an effective speaker, very forceful. And he had such a sincere ring in his voice that he always did pretty good and was very effective.

HESS: Were you present at any time he spoke in 1944?

[31]

CLARK: Yes, I heard him several times -- several times around the country. I remember one in New York and I believe one in California somewhere out there. I was in Missouri when he spoke also.

HESS: Did you hear President Roosevelt speak any time during 1944?

CLARK: Oh, many times. Yes many times, mostly on radio. The TV was just in its beginnings and radio had started about the 1928 campaign. I remember Al Smith always pronounced it radio, and you'd have to have a crystal set but by 1948 it was a very sophisticated piece of machinery, but the TV was not. I remember I bought my first TV -- oh, two or three months before the election. Yes, before November 1948.

[32]

HESS: When did you first become aware that President Roosevelt's health was failing seriously?

CLARK: Oh, I'd say along in '43, along in there, about the time I was appointed.

HESS: About the time you were appointed Assistant Attorney General. Some people point to a later date, around the election or around the campaign.

CLARK: Well I don't know, I of course didn't know Mr. Roosevelt intimately. But Mr. [Lyndon B.] Johnson was very close to Mr. Roosevelt, as you remember, Roosevelt came down to Texas when Johnson initially ran for Congress. I have a newspaper picture, it's not here, if I had that picture I could tell you the exact time. I think Johnson's first race was about -- it must be 1937, '38 along in there, it might be a little before. Back there then President

[33]

Roosevelt was a very dynamic person, full of energy with his eyes always bright and twinkling and his voice with a lilt.

HESS: He carried his cigarette holder at a high angle.

CLARK: Yes, and a long stem. And he would handle himself better although he was under great difficulties with those legs that he had all -- but he could handle himself better than I could. Oh, I was about 30 years younger, I guess. But from time to time when I would see him, which wouldn't be too often, perhaps his physique was more noticeable to me, because I didn't see him

very often. When you see people frequently, you don't notice it as much. But I noticed heavier lines and it seemed to be to me a slower lilt in his voice. I think

[34]

those indications come earlier than physical manifestations of health problems -- aging, but he had experienced a most grueling time, he as you remember was elected in '32 and even when the war came on he had been in for eight years, nine almost.

HESS: And he had to handle the depression during that time.

CLARK: All through times of great stress, antipathy, name calling. I don't know of any man who was blasphemed more than Franklin Roosevelt. And while he had won his great victories, he had lost some. He went through the Court battle, for example, and all that, and of course, he had physical handicaps to begin with. So, it's remarkable that he was able to maintain himself.

[35]

I remember well though when I went over to the inauguration for his fourth term -- he had it on the steps of the White House.

HESS: Yes. They had it on the south portico didn't they?

CLARK: Yes.

HESS: In '45.

CLARK: Oh, he looked terrible. To me he looked terrible.

HESS: He looked pretty bad.

CLARK: I couldn't even talk to him, I was distressed.

HESS: That was shortly before he left for Yalta.

CLARK: Yes.

HESS: Just after that.

[36]

CLARK: Looked very bad.

HESS: I understand that was sort of a cold snowy day anyway.

CLARK: It was, yes.

HESS: Standing there in the crowd.

CLARK: Yes. I remember that was before they had the porch upstairs.

HESS: Yes, the Truman balcony.

CLARK: Yes. So he stood out there and he and Mr. Truman were sworn in there. We'd always had that you know, at the Capitol. It may be that the war caused it, but seeing him as I did, I rather thought that perhaps his physical condition had something to do with it.

HESS: You've mentioned the court episode. I believe

[37]
that was '38 -- '37, '38.

CLARK: Yes.

HESS: What was your opinion of Mr. Roosevelt's plan for the expansion of the Court?

CLARK: Well I was against the plan. I came here in '37, it was about a week before Roosevelt sent his message up, and I was just a small-time lawyer. Senator Connally asked me to come up here and I thought at the time I was going to be an Assistant Attorney General, but when I got here they found out about the Court plan and I found myself what they called a special attorney. It had been ballyhooed down home I was going to be an Assistant Attorney General, so I just took it. And about two or three weeks after I had been in the Department they called me and said they wanted me to talk to Mr. Connally about the

[38]
Court packing. But I told him I couldn't do it. One, I was against it and two, that I wouldn't have any influence with him. While my family was close to Senator Connally, I was not. So they took all of my work away from me in the Department. And then Mr. Hughes, Chief Justice [Charles Evans] Hughes, directed the Federal trial courts to set down for a trial a backlog of war risk insurance and other cases. All the Government cases were called up for trial. The Chief Justice thought he would get the Department of Justice busy trying cases rather than trying to pass legislation on the Supreme Court. As you remember Mr.[Homer S.] Cummings was rather a forceful Attorney General -- on that quick type of bill.

So I was one of the few lawyers in the Department who had much experience in trial

[39]
work. They sent me out to try these cases. I went all over the United States and while I was gone most of the work on the Court bill was done and I didn't have anything to do with it at all. I think

it was a bad suggestion, however it did end up in perhaps a very good solution, that was by giving the Justices their opportunity of retirement at the same salary as they got while active. Many of them who were really beyond the age anyway elected to retire and since that time I think it has worked very well. As a matter of fact, adding three more Justices would not do the job; that would just add additional burdens.

We have always considered the Court as one Court -- not nine Justices. In fact the Constitution says there shall be one Supreme Court and since the Congress said that there will be nine Justices, we decided that all nine of

[40]

them have to pass on every matter. You wouldn't have one Court if you had a panel of three passing on cases, you wouldn't have but one-third of a Court. So we have always considered our Constitution required that every Justice pass on every matter whether it be a simple motion or a final decision after argument. So we have always followed that rule, if you had three more Justices you would have three more people to argue with, which would only delay and confuse our deliberations rather than expedite them.

HESS: Just add to the problems.

CLARK: Yes.

HESS: Where were you when you heard of the death of President Roosevelt and what were your thoughts and impressions?

[41]

CLARK: Well I was on the way out to Arizona to make a speech out there and I believe it was in Fort Worth, Texas, that I heard of it. I am not certain but it was somewhere in Texas. I had gone there on the way to Arizona, so I turned around and came back to Washington.

HESS: What kind of a job did you think Mr. Truman would do?

CLARK: Well of course, I was strong for Mr. Truman; I thought he would do a terrific job as President. He had always thought of the job as being an overwhelming, a crushing one. I remember when he first came in he spoke of how difficult it was going to be for him to handle it. But I don't think any of us that knew of his work or knew him, had any doubts about it at all.

[42]

He was a very decisive man and I think when you reach that echelon of governmental operation, decisiveness is one of the main attributes. The second one, would be honesty in making decisions, and certainly he had that. The third one would be after you have made a decision, to put it aside and not to fret over it, not to try to monitor it and see what the newspapers are going to say tomorrow and the next day. He was a past master at that, I never saw anybody like him in

my life and I've been honored to associate with quite a few people in high offices. But he was able to cast past decisions aside and take up new problems, which, of course, were pressing all the time. He had a new one every minute. So as a consequence he was able to give his undivided attention to decisions of current matters, rather than fretting over old decisions

[43]

that had already been made and were like water over the dam.

HESS: Was there ever a time you may have had difficulty getting a decision from him?

CLARK: No. He was always quick and very decisive. He held a Cabinet meeting on Friday and I would stay over and talk to him about vacant judgeships and things like that. Two or three times on judicial appointments he had some ideas of his own, for example, Senator Burton, and he had been on the Truman Committee. As a matter of fact I had his name on the list of suggestions for a successor to Justice Roberts.

I had a practice of putting three names on the list of nominees. Since Mr. Truman had been in the Congress I thought we should put a Congressman or Senator on the list. Then I'd

[44]

put a judge either from the Federal or state courts and usually a lawyer would be the third one. The then Secretary of War, Mr. [Robert P.] Patterson, was my choice for Justice [Owen J.] Roberts' place and I had also put Mr. Burton down and the third choice I think was a judge from California, he was a trial judge, his name was McCormick and he was the chief judge in Los Angeles. I had tried cases out there and I knew him long and very favorably. So I talked to President Truman about Patterson, and he said, "Well the only problem is that Bob handled all the procurement during the war. And of course, the President was very close to the procurement picture but I just know that he thought well of Bob. What you might do, he said, was to talk to Bob and see if he thought he would be foreclosed from testifying as a Supreme Court Justice.

[45]

The 80th Congress was determined to investigate procurement of all kinds. So I talked to Mr. Patterson, I didn't tell him that I'd talked to the President at all. I just said, "Well I was thinking of making up my list and of course he being a brother Cabinet officer, I thought of him, and I wondered what he thought about the procurement investigations. Could he testify after going on the Court about procurement problems occurring while he was Secretary?" He saw no problem.

So I reported back to the President -- it was on a Saturday -- and before I got to report back to him on Monday, he called me Saturday afternoon and he said, "Have you seen Patterson?"

I said, "Yes."

And he said, "I wished you hadn't seen him, I have about changed my mind."

[46]

I said, "Well it didn't matter I did not relate to him anything about you and I talking. He doesn't know anything about your having made a decision on it."

He said, "Well, I've decided on Senator Burton." So we sent his name up. Then one other time the only two...

HESS: I want to ask a question about that, because Justice Burton was a Republican, right?

CLARK: Yes.

HESS: It is a little unusual, is it not, for a President who is a Democrat to appoint a Republican, or vice versa. Particularly for the first vacancy, now this was the first vacancy that Mr. Truman had a chance to fill on the Court. Why do you think he filled it with a Republican or did politics just not enter into it?

[47]

CLARK: I rather think politics did not. You see Patterson was a Republican also. I rather think Mr. Truman had known Senator Burton very closely of course, had been associated with him on his Committee and was not only a great admirer of his, but also personally fond of him. And I think that he thought that Burton would make an ideal Justice, which he did. So I rather doubt if it was an effort to try to show nonpartisanship or things of that kind. I doubt if he even thought about it.

HESS: In the newspapers at the time it's mentioned that this came as a bit of a surprise.

CLARK: I imagine it was.

HESS: A Democratic President's first Supreme Court appointment went to a Republican.

[48]

CLARK: And particularly because he was such a staunch Democrat, they had tried at times -- oh, all sorts of things, like Pendergast and everything else that you'd have thought. Many of the papers would have thought that he would appoint a Democrat right off, regardless of his feelings towards Burton or anybody else. But I rather think that he had in mind primarily of course, well who would be a good man for the Court?

HESS: You say you added his name to the list?

CLARK: His name was on my list.

HESS: What made you think of him?

CLARK: Well, one, he was on that Committee; two, he had judicial spots before and three, I thought he would make a good Justice.

I think if you'll go over his judicial

[49]

appointments most of them went along that way. He didn't have very many.

HESS: He had four, including yourself.

CLARK: Yes.

HESS: There were, Harold Burton, the first, that was 1945, Fred Vinson in 1946, and then yours I believe was in '49 also.

CLARK: Yes, before Minton.

HESS: That's right, August of 1949. Are you aware that you are the only one that did not serve in either the House or the Senate?

CLARK: Yes, that's right. I thought of that.

HESS: Yes. The others had known Mr. Truman in Congress.

[50]

CLARK: Yes. Fred Vinson and he were old friends. I think they knew one another when Fred was in the House. He was on the Ways and Means. I'm sure they did.

HESS: And Sherman Minton, I believe, came in at the same time as Mr. Truman. They were in the same class, as they call it.

CLARK: Yes.

HESS: He came to the Senate the same time as Mr. Truman.

CLARK: From Indiana.

HESS: That's right. And that he'd served as a Federal Judge from '41 to '49.

CLARK: Yes.

HESS: He served in the Senate from '35 to '41.

[51]

CLARK: I think Roosevelt put him on the 7th Circuit Court. And he was on there when Mr. Truman elevated him to the Supreme Court.

HESS: Why do you think that he appointed Minton?

CLARK: Well I wasn't AG then, but I know they were close friends and Minton was on the Truman Committee. But I think his experience as a judge from '41 to '49 was very strong -- had emphasis in Mr. Truman's mind.

Mr. Truman had gone, as you know, to law school at night for one year, but he did not have a law license. He had been a judge, as you know, but...

HESS: It was an administrative position.

CLARK: It was administrative.

HESS: Some counties call them county commissioners.

[52]

CLARK: Handle fiscal problems mostly, build roads, road systems. He was the County Judge. We have the same position in Texas. What we call the County Judge.

HESS: Why do you think he appointed Fred Vinson as Chief Justice?

CLARK: Well I'll tell you, we had some growing pains on Fred. The time of the death of Chief Justice [Harlan F.] Stone, was when he was seated. Stone had a little attack on the bench and he died that night. Bob [Robert H.] Jackson, who was then prosecuting in the Nuremberg trials, had been informed that President Truman would likely appoint [Hugo] Black as Chief Justice. And so Bob made a tirade against Black from Germany.

HESS: They didn't get along too well did they?

[53]

CLARK: He had a press conference over there at Nuremberg, or Paris, somewhere over in Europe, and tied it to a case that had been argued during Bob's absence, in which a former law partner of Black's had been one of the attorneys. Well of course, Black had been on the bench then for -- he came on in 1937 and this was in 1946, some nine years, and so you can't just keep staying out of cases forever.

I stayed out of some cases when I came here from the Department of Justice. Our son, Ramsey, argued a case here in the Court, but I stayed out of it. Ordinarily, after all those years, a Justice would not stay out of the case.

I didn't think there was much foundation to Bob's blast, but it caused the President some troubles. Although I don't think he was going to appoint Black. He was looking more

[54]

for someone from the outside, because he had heard, as did all of us, some of the rumblings that go around about the dissatisfaction among some of the Justices. So we had to try to figure out just who would be the best peacemaker. The President asked me to talk to Chief Justice Hughes, who had retired but was still living in Washington. I called him and asked if I could come to see him and he said, "No," he would come see me. We decided we'd go to the White House and he told the President that in his view Vinson would be an ideal person for it.

Vinson was then Secretary of the Treasury as you remember and, of course, we had been considering Vinson. Some sources seemed to think Vinson was more political than he was judicial, although he had served with distinction on the Court of Appeals here in the District,

[55]

and had been picked by Hughes as a matter of fact to head up the intermediate OPA court that handled all the OPA appeals. And Hughes thought very highly of him. I think that was rather decisive in Truman making up his mind although he and Vinson were close friends. We played poker together at times -- several of us, including Vinson and the President. They were close friends.

Sometimes you overlook people who are quite close to you. While he had not overlooked Vinson he had not reached any decision until he did talk to Hughes. Which was a very good decision. Vinson was well received on the Court and that's quite important, because a Chief Justice can disrupt the Court and everybody got along splendidly with him.

HESS: Let's go back for just a moment and fill in some of your personal history. You mentioned

[56]

that you came here to town in 1937.

CLARK: Yes.

HESS: '37 as an attorney. And then I believe you were coordinator of Alien Enemy Control of the Western Defense Command.

CLARK: Yes.

HESS: And Chief of the civilian staff of the Japanese Relocation in 1942, is that correct?

CLARK: '41...

HESS: In 1941.

CLARK: ...and '42.

HESS: 1941 and '42. Do you recall anything that we ought to put down about that? What were your main duties? What were your views on the

[57]
necessity of the relocation?

CLARK: Well I'll tell you, Mr. Francis Biddle, who was then Attorney General, asked me to come to Washington. I had four offices on the west coast for the Department of Justice anti-trust division, Los Angeles, San Francisco, Portland and Seattle. And he told me that Mr. Roosevelt wanted to have a civilian that would take some of the military emphasis off of this Japanese problem on the west coast. The difficulty was to figure out who they could get. They didn't know anybody that had offices up and down the coast, where the citizens of Japanese descent lived and they did not want to organize new offices at that time. They asked me to take on the job.

It was quite a task, I had an office at The Presidio Army Base in San Francisco. My home was in

[58]
Beverly Hills and our chief office was in Los Angeles. So it would entail my having to go up and down the coast usually by United Airlines, but sometimes General [John L.] DeWitt would let me have his plane. We took over a hotel in San Francisco and organized a group that would handle the relocation, this was before the Relocation Authority was created. This group consisted of people from each of the agencies of the Government, for example Milton Eisenhower was for Agriculture, Governor [M. S.] Szymczak was from the Federal Reserve Bank, Mr. [John J.] McCloy was the Under Secretary of War; he was there. Then we had the people that took the census, I think the director of the Bureau. We took over this hotel and put these people in there and the census people began to find where the citizens of Japanese descent lived. Fortunately,

[59]
the census had only been taken the year before, 1940, and so they brought their own files out there. We got some big sample tables like salesmen use and they put the raw reports out on the table. Inside of, oh, 60 days they could tell us exactly the city blocks where the people of Japanese descent lived. It was amazing, their office figures from the 1940 census was within 1/2 of 1 percent of the actual figures.

Meanwhile the engineers, Army Engineers, began their job of building the cantonments, the camps. The first one was Santa Anita. They took over the race track and changed the stalls into apartments, very nice apartments; put in running water and everything. Then they built the Tule Lake camp that was up in the mountains and some down in the desert.

[60]

Meanwhile, General DeWitt and myself surveyed the West to find places where we might build camps where the internees would be received. There was a lot of antipathy and much personal enmity. We went to places like La Junta, Colorado, Salt Lake, Utah and Boise, Idaho. We finally located three or four camps outside of the west coast area, but the largest ones were along the west coast. There's been much talk about this episode in our history.

HESS: Let's go back to the beginning. Looking back what was the view at that time just after Pearl Harbor? What was the thinking at that time on the necessity for relocating the Japanese, or moving the Japanese away from the coast?

CLARK: Well of course, there was a growing feeling that they should be at least controlled by

[61]

curfew. The Congress passed an Act that authorized a commanding general, it didn't mention DeWitt, but the commanding generals in strategic areas to remove people from the area or to have a curfew. Our idea was to have a curfew. At first DeWitt put in a curfew. But the sentiment in California was very, very strong and had been oh, for almost a century. Not necessarily against the Japanese, but against the yellow race. First it built up into a yellow peril complex. The people were already for it in 1942. We had quite a few incidents that were unfortunate; for example, one night we had what we thought was an air raid on Los Angeles.

I had just come in from San Francisco. Mary had a German maid who called to me from the bottom of the stairway. I was upstairs and

[62]

she said, "My God, my God, we was raided." And I went running out on an upstairs deck that was over the porch. I could see the search lights converging out towards Santa Monica. Your mind fools your eye sometimes. I thought I saw anti-aircraft flames and one thing and another. Then the next morning the *Los Angeles Times* had big headlines, "L.A. RAIDED." I had called General DeWitt about 1 or 2 o'clock in the morning and he'd said that we had been shooting at our own planes. So that caused a furor of course.

Then we had one incident at Long Beach where somebody found a bomb on the beach and they claimed it was put there by a one-man Japanese submarine. And many times when I was in San Francisco, which I was almost every day, people would call and say they

[63]

saw a submarine going under the Golden Gate Bridge and things like that. They were not true.

We had thousands of letters about people of Japanese descent; for example one would say, there's a General of the Japanese Army or Admiral in the Navy who lives at such and such a place. We had very close liaison with the ONI, Office of Naval Intelligence, and G-2 of the Army and of course the FBI, which was with us. And so we would get pretty quick service and we found that in most instances they did have uniforms, but they were uniforms of a lodge, like the Masonic Lodge.

HESS: Somebody on the way to lodge.

CLARK: And we would get calls about signals and the instrument used was a window "curtain."

[64]

A person in Santa Monica might pull down his window curtain a certain distance and then let it up, etc. This was thought to be a signal to a boat at sea. We never found an instance where there was any actual signaling was going on; somebody's curtain busted once or twice, and that was all there was to that.

But there was, in addition to the yellow peril hysteria, an economic situation. The Japanese are the greatest stoop laborers, I suppose in the world. The climate, soil, etc. attracted them into California; but they couldn't buy land because of California law; so they'd lease land. However most California land was taken and they were obliged to take it where they could. This would ordinarily be in areas that no one else would want to live because it was too hazardous for a yellow skinned person;

[65]

or it was worn out soil or not tillable because of rock, etc. It might also be hazardous because it would be around high tension wires or transformer stations; or it might be in a switching yard where there are several railroad tracks and things like that; or perhaps it might be a reservoir dam, land right below the dam, where they might have big rocks and other debris that has accumulated there before they built the dam or was left over concrete, etc. Well these people of Japanese extraction would get to work and they would dig the rocks out and bring in some soil, fertilizer and water and the first thing you know they'd have a right nice garden. The people next door or around the corner would say, "Those 'damn Japs' have got the best land in California." Then you take a map, as the Californians did, and put pinpoints of different colors, where people of different races and

[66]

color live: where are the Japanese, where are the Koreans, where are the Germans, where are the Italians and you'd find the Japanese around these strategic places like the high tension wires, the dams and reservoirs.

HESS: And it would look like they had something in mind.

CLARK: Oh, yes. "They are going to poison our water and commit all the horrors possible," the rumor-mongers would say. I well remember headline after headline and hundreds of letters and telegrams I would receive about Tule Lake -- I think the name, a reservoir. I am not certain at this late date but I think that it was a lake up there in the hills where Los Angeles got its water. This hatred was a serious problem for the Japanese themselves; they began to dropping off, some found dead, others

[67]

disappearing. And I would get telegrams from people in small communities saying: "If you don't get these 'damn Japs' out of here you are going to find them dead," and similar threats.

So I finally concluded that perhaps for their own sake we ought to try to do something to protect them. Frankly, I suggested, and Mr. Hoover insisted, that we take care of the Japanese in the same manner that we were handling Germans and the Italians. That was on the basis of individual prosecutions; or what some people call mass trials, but they weren't really mass ones. You might have nine or ten defendants in a conspiracy case. And we convicted quite a few, perhaps a thousand, that we call "Nazi," during the war. The cases were filed in various district courts, particularly, I remember, in Brooklyn; and we had a squad of witnesses and

[68]

prosecutors that would go from district to district offering testimony on the background of the Nazi Party. It was, of course, the same background in each case which permitted the use of the same witnesses in various courts. The individual action of a defendant would have to be proven by specific witnesses as to specific conduct; and, it would be different of course. As a rule we had no trouble but we had one case here in the District of Columbia that gave us some; but no violence or anything like that.

Honestly we didn't have any trouble with the Japanese; as a matter of fact the Japanese were not interned until I'd say April or May 1942; that is the first ones; and some of them were not moved until much later in the war. And we never suffered any sabotage, either in Hawaii or on the west coast.

As I look back on it I think it was

[69]

entirely unnecessary. We could have done without it. Of course your hindsight is much better than your foresight; also you have to put it in the perspective of the time, which was that there was a great hullabaloo about getting them out of California, or something would happen to them. And now that is all over I rather think that perhaps it was for the best. A large percent of them did not go back to the original homes. I think less than half of them went back to California. The rest of them are scattered over the United States. I had a meeting here with the Japanese-American Association, I think they call it, and they had no chip on their shoulder; there was no

acrimony. In fact they gave me a beautiful etching that one of their people had drawn. It's just been four or five weeks ago. So I rather think that while it was a very, very

[70]

traumatic experience, not only for them but for us; of course, much worse for them. But it was also a bad experience for us. But I hope that it will teach us a lesson, that it is not necessary to do these things.

HESS: It's a little past 12, do you want to quit for today?

CLARK: Well this would be a good point, I think.

[71]

Second Oral History Interview with Tom C. Clark, Washington, D.C., February 8, 1973. By Jerry N. Hess, Harry S. Truman Library.

HESS: To get underway Justice Clark, you became Attorney General, you were nominated in May of 1945, and sworn in in June of 1945. Why in your opinion were you selected as Attorney General?

CLARK: Well, I rather think, as I have outlined before, that my activity with President Truman when he was chairman of the Senate defense plants investigating committee (known as the Truman Committee) led to it. It had to do with procurement contracts in the construction of defense plants, materiel, equipment, etc. The Department of Justice had a war frauds unit that prosecuted fraud cases; Senator Truman was chairman of the defense plants committee and after holding a hearing he would

[72]

send a copy of the transcript of the testimony to the war frauds unit, of which I was the chairman. After reviewing the transcript I would go to Senator Truman's office and discuss the transcript with him and his Counsel, Hugh Fulton. So I got acquainted with Mr. Truman in that manner. We cooperated very closely and prosecuted some very serious fraud cases which the Truman Committee had uncovered. The Committee rendered a great service to the country and Mr. Truman became nationally known for his honest, forthright approach to the work of the Committee. It made our work of prosecution easy and much more certain. At the same time it afforded quick punishment and promoted obedience to law. I must say, however, that I had developed a war friendship with Robert Hannegan, who was also from Missouri. Mr. Hannegan originally was the Internal Revenue Collector in St. Louis, and then came here

[73]

(Washington) as Commissioner of Internal Revenue; and became -- during Mr. Roosevelt's time -- chairman of the Democratic National Committee. I had become acquainted with Mr.

Hannegan through mutual friends in St. Louis, and he was, I think, largely instrumental in getting my appointment. Frankly, Bob Hannegan came to me about -- well it was before Mr. Roosevelt's death.

HESS: April the 12th, 1945.

CLARK: That's when he died? I was about to go back to private practice in Dallas. I had been in St. Louis and talked to Adolph Busch at his request. At that time, the train service from Dallas, my home town, and Washington went through St. Louis and one had a three-hour wait over in the trip. So I went to lunch with Adolph Busch who was the predecessor of Augustus

[74]

Busch, who is the current president of the brewery.

HESS: The Budweiser Brewery.

CLARK: Budweiser, yes. There was a group of non-resident breweries doing business in Texas, such as Falstaff and Pabst and including several in Milwaukee who had the same Texas counsel, Martin Winfrey. Winfrey had passed on shortly before that time.

I had, before leaving Dallas, represented the *Times Herald*, a local newspaper, and it had been trying to get me to come back. I had also lost my older brother in 1943 and his practice was quite extensive. The plan was that I would return and take over both the Winfrey brewery representation and my brother's firm. In addition, the Attorney General of Texas was Jerry [Gerald C.] Mann; he was a well and

[75]

favorably known young man, and we were going in together. But Bob said, "No, you ought not to do that. We have bigger things for you." He didn't tell me he was thinking in terms of Attorney General.

After Mr. Roosevelt's death, why, Bob called me one day and he said, "I want you to get me two letters. One from Senator [Tom] Connally and one from Sam Rayburn." I went to the Speaker first because it was pretty hard to see Senator Connally then; he was chairman of the Foreign Relations Committee and the war, you know, was still on. Sam pulled out his desk drawer and took out a piece of his personal stationery, "Speaker of the House," and he wrote in longhand: "Dear Mr. President: If I were in your seat I would appoint Tom Clark Attorney General." Signed: "Sam Rayburn."

Subsequently I got a letter -- a three or

[76]

four page one that Senator Connally wrote. There was quite a contrast between the two letters, although each was very kind and helpful. I gave them to Bob, and he, I suppose, took them to the President. I don't know what he did with them. I got a call one day from the White House; I was asked to come over and see the President. When I went over he told me, himself.

HESS: Did he say at that time how he would like for you to run the Department of Justice? Something on his philosophy of justice perhaps?

CLARK: Well, yes, he did. He told me, and you'll find a slight reference to this in his book, that he thought that there were many injustices being visited upon many of our people, and that he wanted me to see if we couldn't bring a more effective justice home to the average man in the courts -- not only Federal but state. And he

[77]

seemed to be very much impressed with the idea of perhaps the Attorney General could in some extracurricular way, as well as officially, be a catalyst in that area. Then he told me, I remember well, he said, "Also I want you to pick out somebody for Solicitor General who, in the event you go, I'll have another man -- I won't have to look all over the country and wait around to get me another man to be Attorney General."

HESS: Who did you select?

CLARK: Howard McGrath. He was the Governor of Rhode Island.

HESS: Who later became Attorney General.

CLARK: Yes, he did. So, from time to time, why of course, I'd see Mr. Truman. I was very fortunate. I had a close personal relationship

[78]

with Clark Clifford, who was the President's counsel. And that's a very sensitive spot for an Attorney General, because the President's counsel is a lawyer who is in the White House -- President Roosevelt created the office -- Presidents had had confidants, of course, for years. But you may remember it really bobbed up more during the time of President [Woodrow] Wilson who had House, who was a Texan, incidentally. Then, subsequently, Mr. Roosevelt established the office of counsel. I don't think it was because he had any lack of confidence in the Attorney General. But it was just that the many, many things that came up in such a sudden and never ending fashion, required immediate attention, and sometimes you couldn't get the Attorney General; often, too, the bureaucracy works a little slowly, and so Mr. Roosevelt used Sam [Samuel] Rosenman, you

[79]

remember. Mr. Truman appointed Clark Clifford, who was his Military Aide -- I think it was...

HESS: Naval Aide. Came in as Assistant Naval Aide and then worked up to Naval Aide.

CLARK: Then became the counsel, and that was fortunate for me, because Clark and I had a rapport that worked beautifully.

HESS: When did you first meet Mr. Clifford?

CLARK: Oh, I met him when he was in the Navy. He appeared several times before congressional committees and I met him in that fashion.

HESS: One brief question. The relationship between Samuel Rosenman and Francis Biddle, did you ever hear Mr. Biddle make any comment on what his opinion was of the President having a Special Counsel in the White House?

[80]

CLARK: He didn't like it.

HESS: I understand that when Mr. Roosevelt appointed Sam Rosenman he waited until a time when Francis Biddle was out of town to make the announcement. Do you recall that?

CLARK: Oh, I rather doubt that. Mr. Roosevelt was a pretty positive person. I knew him myself. I don't think he would have cared a whit how the Attorney General felt about it.

HESS: Sam Rosenman was the Special Counsel for about, I would say ten months into the Truman administration -- he stayed from April...

CLARK: Yes, he was.

HESS: I think the date is February the 1st of 1946, which would make about ten months. During that period of time did you work closely with

[81]

Sam Rosenman?

CLARK: Well, not so much as I did with Clark. I knew Mr. Rosenman, but not as well as I do now. I, of course, became acquainted with him when he was there. And he was very cooperative; we didn't have any problems. But of course, he was not there very long. I was new and it was natural that some deference would be paid.

HESS: I don't know if it's true or not, but we hear today of persons on the White House staff who place themselves between the President and his Cabinet members. Would you comment on that? Did you find anything like that in the Truman administration?

CLARK: No. I did not in my appointment. In my service I did not. Of course you always hear those things, and I think that sometimes some

[82]

of the Cabinet officers not knowing the situation might call someone like Clark -- might call someone else in the White House, maybe some assistant -- rather than involve the President they would call the aide. I think that's the way that idea crept in. And, of course, the President's a pretty busy person. He can't be seeing a Cabinet officer every moment. We used to have meetings every Friday, and rather religiously. I don't think many were passed over. He would talk over various problems that were raised by the Cabinet officers. I had a habit, which was a bad one, of meeting with him after the Cabinet, sometimes before.

HESS: Was this on something that you wanted to take up with him that did not affect the others and would therefore waste the time of the other Cabinet members?

[83]

CLARK: Right. And maybe appointment of a judge or something.

HESS: Was this particularly unusual or wouldn't the other Cabinet members do the same thing - - want to talk to him about something that was not...

CLARK: I'm sure that's true, particularly in certain areas. For example, the State Department I'm sure did all the time. Foreign affairs were pretty hot then, you know; and, then, the atomic bomb was quite controversial. There was a movement on foot to turn it over, lock, stock, and barrel to the world. Three or four of us fought that in a Cabinet meeting and we prevailed, although of course, the secret mechanism eventually got out. But I rather think this decision delayed the development of the bomb for three or four years in other hands.

[84]

It may have had some effect, although I'm not one to say it changed the world in any way; but I rather think that maybe our action had a sort of a cold effect; you will remember, soon after Mr. Roosevelt died, relations between us and the Communist world got pretty hot at times. It might have been that if we had turned the bomb over something untoward would have happened, although I doubt it.

HESS: There was a good deal of debate within the Cabinet on that, was there not?

CLARK: Oh, yes, we devoted, I remember, one full Cabinet session; I rather think in the fall of 1945 -- perhaps even before -- it had been discussed over a period of four or five months.

HESS: If I'm not mistaken I believe that Cabinet meeting was held in September of '45.

[85]

CLARK: Yes.

HESS: It's fairly well known. Mr. Truman mentions this in his volumes, but which Cabinet members do you recall thought that the secrets of the atomic bomb should be turned over to international control? In other words, what was Henry Wallace's view?

CLARK: He was in favor of it -- period. I think Vinson, Hannegan and myself -- let's see, I think [Henry L.] Stimson, I believe he was in favor of world control. I don't know, there was about four or five of us that were against it. The President had a practice of going around the Cabinet seniority-wise. At that time we didn't have a Defense Department, so we had an Army and Navy and Secretary of State. I think I was four in the hierarchy, as I remember it. Treasury

[86]

came ahead of me, Stimson, Treasury, and the Secretary of State, and then, I was Attorney General. And I sat one removed from the President. So, I was pretty high on the totem pole, you might say. We did not have a Vice President, but when [Alben W.] Barkley was elected he attended.

HESS: Did Barkley attend most of the Cabinet meetings? Do you recall?

CLARK: While I was there about half of the time.

HESS: Did he attend more Cabinet meetings towards the first of the second term than he did later in the term? Do you recall anything about that?

CLARK: Well, he was elected in November of '48. I came to the Court in August 1949 so I was only in the Cabinet about a half year during the Truman second term.

[87]

HESS: You weren't there at the latter part of the term?

CLARK: No. During the period I was there I'd say Mr. Barkley was there well over half the time. He sat at the Cabinet table opposite the President.

HESS: What seemed to be the relationship between President Truman and Vice President Barkley?

CLARK: It was very close, very close. They were very friendly, of course they had served in the Senate. Barkley had been a very, very strong contender for the Presidency himself, and there had been some talk of him running, even against Mr. Truman. There was a lot of talk about Eisenhower running also. I don't think that Mr. Barkley ever had any idea of running against him, though. I think his idea was to be Vice President all the time.

[88]

HESS: On the subject of the atomic bomb -- what is your opinion on the use of the atomic bomb in August of 1945?

CLARK: Well, I have talked with the President about that several times. Indeed, I talked with him about four or five months before he died. I had to be over in Kansas City and he was in the hospital. I think I called up after I got there -- I went out to the University of Missouri -- and I went over to the hospital. The doctor said I could stay about five minutes, but the President wouldn't let me go and I stayed there about forty-five minutes, and we got...

HESS: What did he talk about?

CLARK: Oh, we got to talking about various things, all the way from playing poker to the atomic

[89]

bomb. He sat in a chair, and I didn't notice any weakness at all, and his mind was just like a steel trap, and he was very forceful and he didn't pull any punches. Typical Truman appearance. He defended his dropping the bomb. I rather think myself, that it was necessary to do it. To defeat the Japanese would have entailed the loss of millions of our soldier boys. Because it's somewhat like the Vietnam situation, except it's not quite so aggravated, you wouldn't have so much guerrilla warfare -- a dissipation of your efforts and greater effort to try and reach the heart of the problem that would be Tokyo; you'd have to do some island hopping; if you didn't use the bomb. And I rather think it will be a good lesson for history. Now it's been, well, thirty years almost, and we haven't had another atomic incident. I don't think

[90]

we are going to have one. I rather think that we're going the other way, to where we're going to reason things out together, if we possibly can.

HESS: What did Mr. Truman regard as a proper role of his Cabinet? Were they his principal advisers?

CLARK: Well, I would say that Mr. Truman was one to believe that a Cabinet officer should run his department with a free hand. He never did interfere -- never asked me to bring a suit or to slow down on one. He never was critical although I got a lot of criticism otherwise. I don't know whether you've been through the papers or not -- newspapers, but I got considerable criticism. At times it was pretty rough particularly with reference to the John Lewis-United Mine Workers injunction suit over the coal strike, the Kansas City vote frauds, the

[91]

Hiss case, and the loyalty oaths and things of that kind. But at no time, at no time, although I had lunch about once a week with the President and met on other occasions also did he ever criticize my action. Practically every week he'd have three or four of us over for lunch at the White House. And then quite often I would see him down -- it's not in the basement, but they had a little dining room downstairs there -- and either Clark Clifford or Harry Vaughan or somebody would ask me to come over. Usually it would not be a session about any matters of State. It would be a sort of relaxing period that you could meet with the President. I remember especially one time on his birthday. He had a cook named Pye, and Pye had cooked a birthday pie for him. We found out about it and obtained a union label which, as you know, is often stuck in the crust under them.

[92]

If you look on the bottom you can tell right off whether it's homemade or not. And so we put this union label on the pie crust next to the pan. Pye came prancing in balancing his pie on his hand. The President cut it at the right place, exactly where we had that union label on the bottom of it. Just as he slipped his knife under it and raised up his piece of pie it turned over and there's the union label in full view. He looked up at Pye just like a Broadway actor. You would never dream that it was a frame-up at all, and the President says, "Pye did you tell me you baked this pie?" Pye was a devoted person and he loved the President and had waited on him for years. He turned white and was non-plussed; then the President laughed and Pye was greatly relieved. This is an example of the type of thing that we did. Sometimes it wouldn't be so hilarious!

[93]

HESS: Were there other people outside the Cabinet who were just as close in advisory levels to the President than the Cabinet members? Some of the people on the White House staff, perhaps, some people not even in Government?

CLARK: Well, if there were I didn't know it. The only one, I would say, that I came in contact with in that regard would be Clark Clifford. I remember several times that I did go over to see the President about the coal strike, and he had Clark Clifford there. But we would talk about strategy and the chances of success and things of that kind, and the effectiveness of the injunction. Whether it was an effective weapon to put an end to a strike. I went over two or three times, and I think -- one time we met upstairs in his office right next to the President's bedroom -- and Clark, and I, and he talked over the situation.

[94]

So, I would repeat, I do not remember anytime other than this instance when the President called in other counsel and of course he was his counsel at the time. There wasn't anything untoward about him having Clark there at all. I don't know of anyone else that was either in the White House or from the outside of the White House, that was ever consulted about any matter in my jurisdiction.

HESS: The period following the war was a period full of strikes and labor strife. One of those was the railway problem in 1946. I have found that the President called the Cabinet in in late May of '46 to inform them that he intended to go to Congress in person the next day, and demand the labor law that would give him the authority to draft strikers into the armed services, when the strike

[95]

threatened to bring on a national emergency. Cabell Phillips in his book *The Truman Presidency* on page 115 states that when you raised a question about the constitutionality of such a move, the President brushed you aside with the answer, "We'll draft 'em first and think about the law later." Do you recall anything on that?

CLARK: Well, I drafted that law, George Washington and myself. We had a George Washington too. He was a lawyer.

HESS: Was he Solicitor General?

CLARK: Assistant Solicitor General. At that time we had an Assistant Solicitor General that wrote all the opinions, under the name of the Attorney General for the President -- legal opinions. Now they call it Office of Legal Counsel or something like that; but then we called it Assistant

[96]

Solicitor General. George and myself and two or three other people in the Department of Justice stayed up all night, that very night that he made that decision, drafting the bill and then he sent it up to Congress. He went up there with it the next morning, and it was introduced at 12 o'clock noon. Mr. Rayburn was the Speaker. It passed the House pretty quick -- an hour or so; and it went over to the Senate and Bob Taft stopped it.

HESS: I believe that was the time when the President went up to deliver that message in person, and Leslie Biffle, the Secretary of the Senate, handed him a note during the speech informing him that the strike had been settled. Is that correct -- that same one?

CLARK: I believe that's right. Yes, the same one.

[97]

HESS: Now, a brief question about the loyalty of Government employees and this was another thorn, this was another subject that was back and forth.

CLARK: Yes it was very, very difficult, and I think led up to one of the brightest days in Mr. Truman's administration, and that was when he appointed a commission to look into it. They drew up a report which they called "To Secure These Rights," which he promulgated. And if you will study that -- it's only a few pages -- you will find it is a blueprint of most everything that's

been done in the area of civil rights since that time (1946). He followed that through by integrating the armed services of which he was the Commander in Chief; and, although Mr. Roosevelt, whom I loved, had talked much about the plight of the Negro and

[98]

things of that kind, why, he never got around to integrating the armed services. He did create the Fair Employment Practices Committee, which we call the FEPC, which caused a hullabaloo down in the South. I remember quite well the newspapers would run pictures of Mrs. Roosevelt with black people, and attach some derogatory headlines to it. It was difficult for Mr. Roosevelt, I'm sure; but Mr. Truman took the position that we had to have immediate action on it, and he proposed legislation to the Congress, some of which became law. Eventually, the housing legislation which Mr. Johnson was able to get through in the middle sixties was really a refinement of Mr. Truman's proposals. He also made proposals with reference to voting public accommodations and things of that kind. So, I rather think that this program had its inception back there. Of course, at

[99]

first he had the war on his hands; he couldn't devote much time to it. He was determined to make some progress in this area. Of course, the Congress didn't cooperate too much during the 80th Congress, in particular. He couldn't do much then, but when he got his Congress in, why he was able to do much more.

HESS: We'll get further into the question of civil rights a little bit later, but more on the question of loyalty.

CLARK: Loyalty, we of course, were somewhat disturbed about the attacks that were being made with reference to Communists in the Government as well as at large.

HESS: State Department.

CLARK: In the State Department. So we tried to initiate some workable solution to protect

[100]

the Government. During the war, in fact beginning about 1941, these were loyalty boards. Most people never heard of them, but they were boards that were created without any public hearings. Their procedures were all secret. Those in charge did not make them public. They had a list just like our list, except it was not made public either. It had such organizations on the list as Nazi groups, the Ku Klux Klan, and Fascist organizations were on their list. It was done to protect the Government from Nazi, Fascist and other groups just as ours was to protect against communism. During the war, as you well know, the Communists were our Allies and we were fighting side by side. We gave them all sorts of materiel and equipment. So, as the cold war progressed and as [Winston] Churchill announced the "Iron Curtain" why we

[101]

naturally became alarmed at infiltration into our own Government, and the loyalty of Government employees. There were many attacks, particularly in the House and Senate, through the Un-American Activities Committee of the House, and Senator Ferguson had a subcommittee of the Judiciary Committee in the Senate. We got blasted nearly every day over something; and then Senator McCarthy came into it and was quite active in it. But I think that these Executive Orders that created the loyalty boards and the reviewing boards (headed by Seth Richardson, who was a Republican incidentally) was likely the cause of -- well, one, the switch of our affection unfavorably to Russia, soon after the war was over; I'd say this was a 180° switch. And while many people in high posts thought it was an unfortunate one that we could have avoided the public itself was

[102]

definitely opposed to any affiliations or to any leverage being granted to any Communist country. This was evidenced by the effective programs resulting in Communist supporters, speakers, etc. not being admitted to the United States and things of that kind. So, we promulgated the Loyalty Order, and its whole system of preclusion of Communist sympathizers in Government jobs. There was no secret about it; the entire program -- including the prescribed list of organizations was public. The latter was known as the Attorney General's list, which included quite a number of organizations. The Justice Department had hearings on it and I've been criticized for it, but the Supreme Court later held it unconstitutional -- as not affording due process. In fact, hearings were held as to organizations that protested. There was a panel of three in the Department of

[103]

Justice that heard these protests; considered the entire list and recommended to me the organizations that should go on the list. We did have hearings to those objecting despite the Supreme Court finding, which was based entirely on the complaint in the case. I remember well the Lawyer's Guild appeared for a hearing. But the McGrath case went to the Court on what we call a motion to dismiss and in that procedure all of the allegations of a complaint are taken as true, and the allegations were that we did not have any hearings, so that's why the Court found to the contrary.

Actually we did have hearings; we did list the organizations that the hearing panel recommended and we circulated it to the various loyalty boards created under the Executive Order. Without our advice or approval several states began passing laws that would adopt the

[104]

Attorney General's list as to State employees. First thing you know the Attorney General's list was applied, applied across the board, in private life as well as in public employment. It was never intended for use outside the Federal establishment but in a short while it was followed with reference to practically all employee loyalty, public and private. There were many cases

involving it. Practically all of the states adopted loyalty programs, loyalty oaths, and things of that kind. It was a time of some hysteria. It was right after the war. The people were somewhat disturbed about the Communists, particularly at that time. The Chinese were working somewhat closer to Russia than they are now. And as a consequence there was public feeling that we should be much more strict in that area. We thought that some of

[105]

it was largely hysteria, Witch hunting, we tagged it. And the President was determined that no one would be crucified by this hysteria, and so we put many safeguards in our program. And I don't think, as I look back on it, that there were too many untoward situations. Of course, any program that you have of that type is going to have some difficult situations that in hindsight appear to be untoward and insupportable. But I'd say as a general rule that the thousands of employees, over two million in fact, who were in the Government at that time suffered no problem. It worked surprisingly well, and as time went on it was refined to prevent unfair application in cases of hardship. By the time that Mr. Truman went out of office, why, it was about the same program that is in operation today.

[106]

HESS: As you will recall, it was on November the 25th of 1946, that the President signed an Executive Order which established the President's Temporary Commission on Employee Loyalty and that Commission was headed by Mr. [A. Devitt] Vanech and...

CLARK: Yes.

HESS: ...and on that subject Mr. Richard M. Freeland in his book that's just come out recently *The Truman Doctrine and the Origins of McCarthyism* states -- this is on the subject of employee loyalty and investigations.

CLARK: Yes.

HESS: There is reason to believe that Clark raised this matter before the Cabinet as early as mid-June 1946, and it is clear that he pressed the issue in calls to the White House during August and

[107]

September. Clark's advocacy of a new initiative in this area was consistent with the concern over internal security he had manifested since his appointment as Attorney General.

A little further down the page he goes on to say:

There is reason to believe that in urging new action with regard to employee loyalty Clark was reflecting the views, if not following the advice, of F.B.I. Director Hoover.

Did you ever follow the advice or reflect the views of J. Edgar Hoover in the matter of the investigation of employee loyalty?

CLARK: Well, not that I know of. Mr. Hoover sometimes would talk about -- during the early period -- the composition of the board, and the type of investigation the F.B.I. would make; that puts quite a burden on this organization to have to investigate every person in the Government, and so he would naturally talk about that. But as far as formulating any broad principles, or

[108]

allied decisions, why he had nothing to do with it. Mr. Vanech was one of my assistants, Gus Vanech, and I selected him myself. While he had been in the Department sometime he certainly wasn't any protege of Mr. Hoover. Mr. Hoover had organized after the war a section in the F.B.I. that was devoted to internal security. It was beamed largely toward Communist activity. There was a large increase, a phenomenal increase in reports that I would get from him with reference to alleged Communist infiltration. However, most of those things were very general, and I had an assistant Jim [James M.] McInerney, an old friend, that was in the Criminal Division that took all those reports day by day as they came to me; they were routed to him, I wouldn't even see them. He would go over them carefully and give me a report on them or send me the ones he thought were sufficiently important

[109]

for me to read. Mr. Hoover, as I remember it, never did attend any meetings of this Commission until after it was organized and in business. He attended, I believe, one or two of the initial meetings where they were trying to develop a pattern of investigative technique that the Commission wanted to follow, and matters of that kind that would be within his jurisdiction.

HESS: On the subject of J. Edgar Hoover -- did you have a compatible working relationship with Mr. Hoover?

CLARK: Well, early in our relationship for several years before I became Attorney General, of course, I had been Assistant Attorney General for two years. Mr. Roosevelt appointed me as head of the Antitrust Division in 1943, and then Mr. Biddle transferred me later to the

110]

Criminal Division. We had a practice in the Department of Justice under which the Attorney General might switch an assistant without confirmation -- every Assistant Attorney General had to be confirmed by the Senate -- but without confirmation he could switch you to another Division, so I went over to Criminal. Of course in Criminal I was very much closer to the daily workings of the F.B.I. They investigated all our cases, in fact most of our cases originated in the

F.B.I., other than those that might be sent from other agencies of the Federal Government, which was not a significant proportion. So, we had to use the F.B.I. for investigative purposes, and as a consequence I was thrown with Mr. Hoover more when I was an Assistant in the Criminal Division. Mr. Hoover was a very efficient and hard working person, very conservative, and was certainly imbued with

[111]

the idea that he had a high responsibility, not only to ferret out crime but also to protect the security of the United States.

HESS: Mr. Hoover was a subordinate to the Attorney General, and as you know, there have been newspaper reports that he did not look upon his situation there in that manner with some Attorney Generals. I have Robert Kennedy for instance, the report of conflict. Did you have any difficulty, any conflict with Mr. Hoover over your position?

CLARK: Well, I rather think that, as a general rule, Mr. Hoover tried to do what I indicated should be done. But in operations as massive as Mr. Hoover's were when I was there -- he had about three thousand agents -- it was quite difficult. He had his agency divided into five or six different divisions. I would have to deal quite

[112]

often with people that were heading those divisions, rather than go right to Mr. Hoover, because invariably he would have to go to them, too. I had personally known most of them, so I'd go to them. Then sometimes there was antipathy. I think that it's fair to say that Mr. Hoover had an overriding passion to protect the F.B.I. in every circumstance and in the area of -- where we began to fall out -- was in the area of security -- Communist infiltration. There's nothing to most of the charges of infiltration in the State Department. He would not say that a Federal offense had been committed that was cognizable under our statutes. But he claimed that there was a leftist attitude in the State Department -- not at a high level, but in the lower echelons. When they commenced investigating, for example, the Kansas City vote fraud charges -- it was next door to Mr. Truman...

[113]

HESS: That's right. It was, wasn't it?

CLARK: It was. Mr. Hoover immediately began to try to backwater to get the F.B.I. out of its failure to solve it as far as possible. Somebody stole the ballots out there right from under their noses. I remember talking to Mr. Hoover about my offering a reward. I'd offer a reward -- personal reward -- to anyone that would furnish leads to its solution. But he pooh-poohed it and said he didn't think I should.

So, later on I found out -- he told me it was unbeknownst to him -- that the F.B.I. had created a separate file; and whenever any derogatory information about me would come into the

Department, why they would put it in that file. And whenever they would send me the relevant files on the K.C. vote fraud stuff, well, of

[114]

course that would not be within it. I just ran across that accidently in the Kansas City vote fraud investigation that Senator Ferguson conducted. He had appointed Bill Rogers, who is the present Secretary of State, to be counsel for the subcommittee and Bill was forthright enough to tell me when I let him go through the file. Originally I wouldn't let the K.C. vote fraud files go out of the Department. But so much criticism resulted that I set up two rooms in the Justice Department Building for Bill to come down and go through the files personally. He came up to my office and showed me the file one day. He had found it in his examination of the K.C. vote fraud files.

HESS: The closed file?

CLARK: The closed file? Well, it was a separate

[115]

file altogether; and I asked Hoover about it and he said he didn't know anything about it. He said that, "Mickey [D. Milton] Ladd had set it up." Mickey's dead and he couldn't talk. So, I said, "Well there's a lot of stuff in here that looks pretty bad." And one of the things -- it was really outrageous -- he had investigated -- unbeknownst to me -- investigated my former law partner. I had not been practicing law since 1934 with my law partner, and this was in about 1948.

HESS: And they still investigated.

CLARK: To see if there wasn't some connection between him and the ballot boxes disappearing. I can't imagine such a thing. He was Attorney General of Texas, and was then a Judge on the court -- the Criminal District Court in Texas. I had nothing to do with his appointment, it was State.

[116]

He had nothing to do with the Kansas City vote frauds but they were reaching out hoping to involve him. Then another untoward thing that was in the file was a copy of the *Kansas City Star* and it said, "Clark," (big headlines on the front page) "Clark Rebuked," or something, I don't know, it had some derogatory headline. I read the article, and it said that the committee investigating the Kansas City vote fraud reported today that Attorney General Clark was derelict in his duty in investigating the case, and that his statement concerning the fact that he had done exactly what Mr. Hoover had suggested with reference to the investigation was false, and all sorts of things. In fact this edition of the *Star* had never been published. It was a story based on Mr. Ferguson's report that he intended to make on behalf of the Committee when his Republican colleague on

[117]

the Committee joined in it. However, his colleague did not join but filed his own report which was favorable to me. But Mr. Ferguson had leaked the report to the *Star* believing his colleague would join and the *Star* had set it all up ready for delivery when Mr. Ferguson had to call them to tell them to hold it. When they had the hearing I went up to the Capitol -- Ferguson was going to announce the findings against me -- and everything; well his colleague Senator Langer didn't agree with Ferguson but came out on my side, the Democrat on the subcommittee, McCarran, of course, was on my side all the time -- he was a Democrat. So when this untoward event for Ferguson happened it was he lost -- not me -- and as a result his report as given the *Star* was wrong. He had to call down there and tell the *Kansas City Star*, and ask them to...

[118]

HESS: Not to release it.

CLARK: ...not to release it. They had already had it in print and the F.B.I. man -- I've forgotten his name now -- the man in charge, the SAC they call him -- in Kansas City.

HESS: Special Agent in Charge.

CLARK: Yes. Later -- the SAC not knowing of the change -- sent this copy to Hoover and said, "I know that you'd be pleased to see what the *Kansas City Star* is going to say." Evidently the *Star* had sent the copy to the SAC right off the press. But it never appeared on the streets on account of Langer's vote in my favor; and that copy of the *Star* was in this file; which led me to think that Mr. Hoover did know about it, because the letter was addressed to him.

[119]

HESS: If he had a file like that on you, do you think he had files like that on other people, and there as you say -- there have been stories that he kept files of derogatory information on Senators and Representatives. They might not know what was in it. They might not know even if he had it, and -- hate to use the word blackmail but...

CLARK: Well, I don't know -- I don't think that Edgar knew about it. I'm satisfied that there were files possibly, but I don't think he knew about them. He had a large organization and I don't think that he would deliberately keep a file like that. In fact, Mr. Hoover's rather meticulous about his relationships with Congress, and I fought for the F.B.I. on many occasions. One that I remember was on the increase in their retirement salaries, which we got up to 50 percent, which was an enormous amount at that time. In

[120]

fact John Snyder, who was the Secretary of the Treasury...

HESS: And had the Secret Service under him.

CLARK: ...under him and was having a lot of trouble with them and he...

HESS: They didn't like that at all, did they?

CLARK: ...indicated to the President that he ought to veto it because it didn't have the Treasury in it. And the President asked me about it, and I said, "Well, why don't you sign it and we'll get the Treasury in it. It would be easier to get them into the bill than it would be to pass a new one." And so he -- knowing the legislative process better than anybody else -- why, the President signed it and we later did. In about a year we got Treasury in...

[121]

HESS: Got the Secret Service covered.

CLARK: ...got them all in it too, which they should have done in the beginning. Then, on other occasions I had defended the F.B.I. on some investigations that they have made and things, where they were under attack. So I felt it was highly out of order for them to have this file. Well, Mr. Hoover told me that Mr. Ladd had told him that I had asked for the file to be created -- that there should be another file on the K.C. vote case. But I had no recollection of it. Certainly, they didn't have any memorandum to that effect, so I rather doubt that I ever so advised Mickey. But I think that Hoover was telling me the truth when he said that he didn't know about the file on me.

HESS: All right. Now we have mentioned the civil

[122]

rights report - the President's Committee on Civil Rights, "To Secure These Rights." And that was presented to the President in October of 1947, and one of the things that was recommended in the report was the reorganization and expansion of the Civil Rights Section of the Department of Justice, and that the Civil Rights Section had been created in 1939 by Attorney General Frank Murphy. During the Truman administration, as the Department of Justice was criticized in the press sometimes for not acting in aggressive fashion in manners pertaining to civil rights. What's your view on that? Do you think that they were unjust?

CLARK: Entirely wrong. The statutes of course, were soft in that area and we had to carry all of them through the courts, all the prosecutions that we had, and all of our cases. As a consequence

[123]

we tried to get in on private litigation, like the restrictive covenant cases, classic case, which was down in Tennessee, and the Smith and Allwright cases. Smith and Allwright for example was a Texas case, we intervened as amicus (friend of the court) and that case struck down the policy in Texas of having a white primary that would select nominees for the Party (Democrat or Republican). It held that the Democratic primary was tantamount to election, and that, therefore, they'd have to follow non-discriminatory procedures in conducting it. In short the selection of membership in the party must not be racial. They must let the blacks in. The classic case, was

where they stuffed the ballot box. The restricted covenants case is where a grantor in a deed, would put a restricted covenant in the transfer of property in order

[124]

to prevent the grantee from transferring it to a black. We were in all of those cases. We won some of our most significant victories in that area, that up to that time was thought to be untouchable. Indeed, we got most of the credit -- some newspapers urged us to file briefs and the press was generous in giving credit for it. We enlarged the Civil Rights Section; it is now a Division. When I was an Assistant it had only two lawyers -- one of them, Henry Schweinhaut was appointed a Federal judge in the District of Columbia. Hoover was against it. He inserted in his investigative directives that he sent to agents that all civil rights complaints be referred back to him, in the Department in Washington, without taking any action. Then he would refer them to me, and when I'd approve the investigation Hoover would say, "Well, the Attorney General ordered me to come in."

[125]

And of course, I would get all the criticism of it, and I didn't mind that, but it did delay the thing considerably. We finally got that out of the requirements. So, I think that we made a lot of progress, that before too long we could commence going into cases like Painter down in Texas, which was a case against the law school. And we were amicus in that. We went into the McLaurin case, which was an Oklahoma case. We went into a Missouri case, all of which were in the area of education. By the time Mr. Truman finished his second term, why the rule in the graduate school had already been established. And that, if you'll read the Painter case, Sweatt is the lead name, you'll find some sentences in there that Mr. Truman's Attorney General put in when he was a Justice, that were the forerunners of Brown against the Board of Education, and that paved the way for

[126]

Brown. As a matter of fact, Brown was here at the time we decided Sweatt. Sweatt was decided about '51, and we held Brown for about three years, because we wanted to try to get a better national coverage -- get more cases from other states. We got one from Delaware, and from Kansas -- well, Brown was from Kansas.

HESS: Topeka.

CLARK: Delaware, we got one from the District of Columbia, Virginia, and from South Carolina.

HESS: Why did you choose the Topeka case?

CLARK: Well, it's just one of the group of companion cases, been here longer than any of the others, and just got on top -- the only sole reason why it carried the name. All those cases are in the decisions, including the District of

[127]

Columbia, and so we just combined them for our purposes of argument at the time I was handling them. Then, in one of the cases, why, we sent the case back. The state had voted some bond issues to improve the separate but equal schools under the old Plessy Doctrine. We sent it back to determine just what they did do about it, whether the separate had come up to the equal.

HESS: They were still separate and not equal.

CLARK: Yes. But, I think it's illustrative of the fact that occasionally the Court delays decisions when the climate is not good. Sometimes the case is not an appropriate vehicle on which to base the point of law involved, the record may be cloudy, or the evidence not clear. In this case we thought that one, the question posed was not ripe for decision; two, the evidence was

[128]

conflicting and sectional in character; and three, another case meeting all these requirements is on the way up. And, so, we held the *Brown* case here for some three or four terms.

HESS: When did the Department of Justice enter these cases as amicus curiae?

CLARK: Soon, before the argument.

HESS: Did you discuss filing it with President Truman before taking that action?

CLARK: No, not after I went on the Court. While I was Attorney General the President talked to me about discrimination, about like problems in the labor field. We brought some actions in that area. He also talked to me about restrictions in voting on the basis of color. He, of course, was interested in these basic discriminations during his entire public life. He recognized

[129]

that the one power politicians recognized was the right to vote. And where a fellow didn't have a vote he would get his rights protected and he wouldn't get any of the benefits of our society; and, so, he was anxious to wipe out such discriminations; that's why we pushed prosecutions in the labor and voting area. We found we would be able to successfully prosecute cases like Smith and Allwright, Plessy and the like; when the Government joined in the cases it gave the case emphasis necessary for an expedited decision. The processes of investigation were so slow and cumbersome; all of the spade work had been completed. Why bring separate cases yourself when all of the points involved were already in the courts, private parties had already started them and the usual delay had already occurred, why not just join in and try to do it. I think our joining those cases

[130]

were really more effective than if we had filed them ourselves.

HESS: Had the Department of Justice joined cases as amicus curiae -- as "friends of the court" before this time?

CLARK: Well, frankly I don't know of any case that they did have. I must say that they did have a section there, three people -- three lawyers -- when I came in as Attorney General, and they had four or five secretaries and people of that kind. But they were using the F.B.I. entirely for investigation, and they were sort of dragging their feet on these areas particularly in southern states. That's understandable; I'm not critical of it. The F.B.I. had to depend upon the local constabulary for much of their investigative work. They don't investigate all these cases. In fact,

[131]

practically, I'd say 90 percent of the direct cases were done by the local people. And so, if they hoped to get the cooperation of the local constabulary, why for them to go in and try to, say like in the Mississippi case -- the name has escaped me right now -- where the police officer tied this black to his car, and then started off at a slow pace where he could walk, and then he started to where he could run, and then he couldn't run, and he got dragged until he died -- it's difficult for the F.B.I. to get information on that, because they cover it up so. We prosecuted those cases. We lost most of them, but in that case why the Supreme Court did go one step closer to what they say nowadays. That step was that the officer had to prove, I mean the Government had to prove beyond a reasonable doubt that at

[132]

the time that the officer tied this fellow to the car and dragged him along, that he intended, he had to prove beyond a reasonable doubt, that he intended to violate and to deprive this victim of a specific constitutional right. In other words he had to prove -- it's the 14th Amendment -- he had to prove it was some other constitutional right, which of course, it's impossible as those are objective things that you can't hardly prove. So you have to get some proof of them -- it's hard to do. So that created a problem for us. I think, with that point, why, it's remarkable we got as far as we did. Mr. Roosevelt, it's true, always talked about these things but never did anything about them, except this FEPC. But Mr. Truman, he didn't talk about them, he did something about them.

HESS: Shortly ago you mentioned the power of the

[133]

vote -- just to what extent did the increasing Negro political power particularly in the large cities of the North -- Detroit, play in the forwarding of civil rights actions during the Truman administration?

CLARK: Well, I'd say in two areas that they were very significant, and that would be in Chicago and Detroit, because we used to try to -- in fact in some portions they were balanced out. That's

about the time that newspaper that's in Chicago, what's the name of it, the black newspaper, they used to come out for Truman?

HESS: Well, one of the big ones is the *Amsterdam News*.

CLARK: No. I don't think...

HESS: And the *Chicago Defender*.

CLARK: The *Defender* that's it, yes. I know, I

[134]

used to see these people quite often and then we got a very close workingship with...

HESS: Sengstacke is the fellow with the *Defender*, John Sengstacke.

CLARK: And then, the NAACP commenced to working with us pretty close and there was a guy named White.

HESS: Walter White, a very well-known man.

CLARK: And Wilkins, I think he was...

HESS: Roy Wilkins was coming at that time.

CLARK: We worked with them pretty closely. I think you'll find that the blacks insofar as the voting was concerned, why, they began to do better. Of course, it was impossible to do anything with the registration down South until Congress acted. You couldn't get

[135]

any legislatures to repeal those statutes. We had to try to strike them down. As fast as we would strike them down they would rewrite it and put another title on it and you'd have to strike it again. It was a never ending process, though. Congress had to pass, under Mr. Johnson's urging, the act with reference to registration - the law, and which I wrote an opinion on when I was on the Court.

HESS: In your opinion, why did Mr. Truman have the views and opinions on civil rights that he did, a man from rural Jackson County, Missouri, which when he was growing up had a southern atmosphere? What was it in this man's background that gave him the views on civil rights that he came to have?

CLARK: Well, he told me from time to time -- I used to see him, I suppose, next to maybe John

[136]

Snyder and Clark Clifford, I'd see Mr. Truman about as much as anybody else, and in some respects on occasions that Mr. Snyder wouldn't have seen him. We played poker, I'd say about every six months; and there would be Clark Clifford, and myself, and Frank, the Postmaster General Frank Walker, and Scott Lucas, who was in the Senate, and sometimes John McCormack and Early

HESS: Stephen Early -- Steve Early.

CLARK: ...who was Mr. Truman's -- a while after Roosevelt -- had the same position that Matthew J Connelly had later; we always had eight players. And we would rotate around, sometimes play at the White House; and sometimes play at my place -- and Fred Vinson, I forgot him -- one of the main ones -- and sometimes on the boat, sometimes at Clark Clifford's and other places. And of

[137]

course, there's nothing that makes conversation more than things like that. Then, when I came on the Court why, I used to go down with Mr. Vinson on the boat; but mostly before I came here. The Court at that time sat in conference on Saturday to decide our cases. Usually, why, we would have these poker parties on Saturday evening and Sunday mornings.

HESS: On the *Williamsburg*.

CLARK: On the *Williamsburg*. And, so, before I came to the Court, why, I would go down with the President and the others when the boat left. Then we would anchor off the Patuxent Naval Station, and Chief Justice Vinson would fly down there, and they would bring him out on one of those admiral launches. When I came on the Court, why I used to go with the Chief down there. The two of us would go down -- usually about 5

[138]

o'clock in the evening -- after the Court had adjourned.

HESS: You and Chief Justice Vinson?

CLARK: Yes. So, I was intimately associated with the President. From time to time, while he wasn't much of a poker player, neither was I -- we were on "poverty" most of the time, as we called it, and we'd pinch the pot. Clark Clifford was usually the "pot pincher" and every pot that came along he pinched out about, oh, about 5 percent and stack them up -- a "poverty pile." Whenever you went on "poverty" we called it, why they'd give you fifty dollars worth of chips.

HESS: You got to draw out of that pile.

CLARK: Yes. Then if you didn't make it on the fifty dollars, although quite often you'd be

[139]

able to make it, why then you'd draw fifty more, but you'd never get over fifty dollars at one time. Well, the President and I were on "poverty" most of the time, so we could talk to one another more. We didn't take our poker as serious as some of them did.

HESS: Who was the best poker player?

CLARK: Well, I'd say it would be Clark and Scott Lucas, McCormack.

HESS: What was generally discussed at those informal meetings? When the poker was being played what was being discussed?

CLARK: Well, it was usually local -- whatever happened to be current news and things like that, or some party, or something that might have happened. Oh, they might sometimes -- not often, though -- get into some serious discussions, but

[140]

it wouldn't amount to anything. We would eat dinner. We would usually start before dinner, and then we would have dinner, and then we would play until about 2 o'clock. The President and I used to go up and just lay down on the deck. I never saw anybody like him, he'd go to sleep right on the deck, wouldn't have any headrest or anything. You know this was summertime -- it was good boating time. In the winter we'd play at our respective houses. He would just -- sometimes we'd get to talking and he would tell me about, how when he was growing up -- about the discrimination against the blacks, and how they couldn't get to first base, and everybody used them and things of that kind, you know. He was going to try to do something about it, that's what he told me.

HESS: What actions could have been taken by the Truman

[141]

administration that were not? Could they have tried to press legislation more than they did?

CLARK: Well, he was pretty strong on that. He tried his best as President.

HESS: What was the main difficulty of the lack of civil rights legislation at that time, the Southern bloc?

CLARK: Well, the Southern bloc was more in charge -- you see Lyndon [Johnson] was able to dissipate it at least put some cracks in it, because he was part of it. Mr. Truman, by the southerners standards was not a southerner; and while they loved him, why, at the same time they loved reelection better. And so it was difficult -- I would think it was almost the same as Roosevelt -- it was difficult to pierce it; and that Southern bloc would go along with a sufficient number

[142]

of Republicans to have a sufficient number of votes to block liberal legislation.

HESS: You'd really have, instead of Republicans and Democrats, sometimes it would almost come down to liberals and conservatives, would it not?

CLARK: Oh, yes. Yes, it would. Of course all those southerners were very conservative, and it's like pulling eyeteeth to get anything through. We'd have to hide the money for this little old Civil Rights Section under another name or it would never get out of the Committee.

HESS: How did you hide it?

CLARK: Put it in other items of appropriation.

HESS: And then draw it out - when they weren't looking.

CLARK: Well, the Attorney General had a right to take

[143]

the money available from one division and put it to another one. We could not divert much, because it would jeopardize the other division. A division, particularly the Lands Division, would have money left over sometimes. So, we would take that and use it for additional civil rights counsel and things like that. We only had, as I said, three lawyers: Henry Schweinhaut, and a lady, and Turner Smith. I've forgotten her name. Weinberg or something like that, it began with a W. Then, when I became Attorney General we had about eight or ten altogether. Henry, meanwhile had gone on the bench and we had - I think Smith was it, as I remember.

HESS: Well, I used the terms liberal and conservative, but using that scale, liberal and conservative, where would you place Mr. Truman on that scale?

[144]

CLARK: Well, I'd put him on the liberal side, off-center. He wasn't down the middle. He was much more liberal than many people give him credit.

HESS: Could you give me a thumbnail sketch of what you would mean by liberal? What would be a liberal and what would be conservative?

CLARK: Well, I'll tell you on that . . .

HESS: Thumbnail definition.

CLARK: . . . has some suspicion of the establishment. I remember well one time when he called me up and he said, "I understand there's a judge out there in Chicago who is sort of off base, and we go to protect the secrecy, dignity and the image of the judicial process." He said, "This fellow used to be a politician," and he was. In fact I'd sent him a telegram one time way back - congratulated him on being elected Senator and down state

[145]

votes came in and washed him out. So, I went out there and talked to him. I didn't tell him Mr. Truman had talked to me, and he was really very much interested in trying to see if this fellow was off base and getting him straightened out, because he wanted to make certain that the image of the Government was properly protected. Then in the area of civil rights again and again, why he would tell me about that. I rather think he was suspicious that perhaps I might drag my feet, being from Texas.

HESS: Did he ever say anything like that to you?

CLARK: No. No. He never did. He never did. But with all the stuff that was going on, why, I'm satisfied -- they used to write articles that I called then "niggers;" and I expect in some

[146]

off moments I may have referred to black people as "niggers," because I'd been reared right next to a colored community. And quite often now I find myself calling them colored people, which is just as derogatory -- they don't like that either. Then they claimed that I would sluff over in my pronunciation of Negroes, I'd say "negra" or "nigger" -- like a "nigger in the woodpile," something like that. Well, you see when I was young we had a fellow that was a slave. He'd come from Mississippi and my father paid him, but he was a slave.

HESS: Had been a slave in Virginia?

CLARK: A slave in Mississippi.

HESS: In Mississippi.

CLARK: He came to Texas -- my father brought him over. He was practically a slave with us. He did

[147]

nothing but look after me and the other kids -- had nine kids, of course he had quite a job.

HESS: He had a big job.

CLARK: I had been reared right next to this black community. I delivered newspapers to that community when I was a kid, and I knew quite a number of the blacks, and I had just gotten in

the habit, because it was sort of a southern dialect that you pick up, and it's hard to cast it off when you first come to another community. So, they would pick those things up and say something about them, but I think you'll find that the people that were really responsible and really in charge of activities that involved the blacks, such as Walter White, and Roy Wilkins, and this man Nabrit, president of the Howard University out here. I think you would find that they would say that I was pretty

[148]

strong on civil liberty. I tried to do the best I could anyway. They had confidence in me. They were close enough to me, that when I had accepted an invitation to speak to the Howard Law School -- it just happened by pure coincidence -- the night that the Brown case came down in 1954.

HESS: '54.

CLARK: The Dean called me up the very day that the case came down and it was out on the radio, saying: "Well, I've been thinking maybe it might be better if you cancelled your date out here." The Brown case just came down.

And I said, "Why is that?"

He said, "Well, some people might think we were having a celebration or something. Might put you in an awkward position."

I said, "Oh, no, I accepted and you have your program all arranged and everything.

[149]

I'm coming out there." But it shows the high regard the Dean had for me. So I would say, as I indicated before, that Mr. Truman's program inspired much that has been accomplished -- it was largely inspired by him. It was the beginning of the civil rights crusade that eventually got us where we are today. We're not too far along now, but we are certainly much better off than we were twenty years ago.

HESS: On the subject of liberal and conservative advisers for Mr. Truman, did you feel that there may have been people, both in the White House and on the Cabinet, who may have been trying to sway Mr. Truman a little too far one way or the other, and to just throw out some names, and I use these only as examples; perhaps for conservative advisers Secretary

[150]

Snyder and Secretary [Charles] Sawyer; perhaps for liberal advisers might be Secretary Chapman, maybe Oscar Ewing, maybe Clark Clifford. Do you think that there were forces at work within the White House to pull the President and his thinking too far one way or the other?

CLARK: Oh, I don't think so. Certainly not deliberately. Averell Harriman enjoyed his confidence considerably, and most people would put him in the classification of a conservative, but he's not conservative at all, he's liberal. And I think that he had -- he was Secretary of Commerce a good while. Sawyer was a conservative.

HESS: He followed Mr. Harriman as Secretary of Commerce.

CLARK: Yes. Then John Snyder was a conservative, but Snyder wasn't what you'd call a rabid one at all; and I don't think outside of the

[151]

Treasury Department that Mr. Snyder tried to influence the President one way or the other.

HESS: Did he keep his advice pretty well towards fiscal matters and monetary matters?

CLARK: Practically always, yes. And Harriman, I had a run-in or two with Harriman. He and I were warm friends. I had brought a suit against Union Pacific he didn't like, but it just shows you how Mr. Truman was. I was suing one of his Cabinet people, and I was a Cabinet person myself. But Mr. Harriman and I have been warm personal friends and I admire him very greatly. I sat on the Civil Rights Commission with him as a matter of fact. But, you take Oscar Chapman; of course, he seemed to have a liberal tendency not only in education but otherwise. I think while he possibly didn't have as much weight on some matters as others, why, he would

[152]

of course, take liberal positions; Clark Clifford was his anchor man and was very influential. Truman had a happy faculty -- one of the Presidents out of the five that I have known that had the happy faculty of making decisions quickly and sticking by them. He would listen to both sides with an open mind. Most of the Presidents that I know had already made up their minds before they listened to you. I'm sure as I'm sitting here, Lyndon Johnson made up his mind quite often before he ever asked me about something. He was reaching around to try to get support from various elements. I'm satisfied that most of Roosevelt's thinking had congealed before he would have the Cabinet in, as a matter of fact he didn't have the Cabinet too often toward the end. Mr. Truman would listen to the Cabinet -- have them in on a Friday, and he would listen to everything they said -- he might not make

[153]

a decision, although he often did right at the end of it -- why, in a day or two the decision would be made. He had a faculty that no one else had -- any of the Presidents that I know of, and that was of forgetting the decision as far as the effects of it on his political life or on his image, you might say, in the public mind. He didn't particularly care how people felt about it. It was his decision and that was it, period! It was over with. He went on to another problem of which there were always plenty. As a consequence, he was able to concentrate his energies, and his attention, abilities, and intellect on the new problems. The old one was gone, other people could fret about

what the papers said. I used to go over there, and one of the Presidents -- not Mr. Truman -- had two or three TV's lined up in his suite. He'd been watching the news on each one and each would

[154]

have a different news story on it, you know.

HESS: Which President was that?

CLARK: Johnson.

HESS: Johnson.

CLARK: Mr. Roosevelt was very, very successful with the press. He'd really take it to them. I think Eisenhower alarmed them some. I think Kennedy was very alert to the press, certainly. But Mr. Truman took it in stride. If some story indicated that he was an "s.o.b.," why, he just sort of smiled and let it go. He might return some -- write you a letter.

HESS: Write Paul Hume a letter...

CLARK: Yes.

HESS: ...about Margaret Truman.

[155]

CLARK: But that's a great attribute for a man in that position, because there are so many thousands of problems that come up for you to be able to set them aside, frankly I'm not able to do it. I think about it myself. It's a difficult thing to do, particularly in his perspective. Here he was a man that had been in the Senate -- he had not had any on the job training, other than as a County Judge which didn't amount to too much; of course, he was the head of a fiscal agency of Jackson County, but that was just one small county, and as you say, it was really a rural community. Here he was catapulted into the Presidency; and didn't want it, didn't want it. He was for Sam Rayburn for President. He wasn't for Harry Truman. As a matter of fact, he asked me -- I was out in Chicago in 1944 -- he asked me to call Sam up and get him up to Chicago. I called

[156]

Sam, and he said, "Well, this state senator is running against me and my first obligation is here to my people. I'd rather be Speaker." So, I told Senator Truman. I also went around and talked to some of the Texas delegation and they were opposed to Rayburn. It was really amazing that a man that made the mark that he had made, much higher than Mr. Garner although he became Vice President, why Rayburn's imprimatur was on legislation that Garner never touched. It was amazing to me that these Texas delegates were against him. But I told Senator Truman that even though Sam came up to Chicago he could not get their support, because of...

HESS: The Texas delegation.

CLARK: Well this segregation thing Sam had come out the other way. They really got mean with him. Now, Lyndon was able to placate them, and

[157]

keep their confidence, and their support, and at the same time push the blacks politically.

HESS: What was the difference -- the passage of time?

CLARK: Well, I think one, that he just had that faculty of being able to reason with people. He'd get right up to your nose almost and talk to you eyeball to eyeball.

HESS: I understand he was a master at that. One on one.

CLARK: I'd say in a group of eight or ten people, not over ten or twelve, why, he was as good as I ever saw in my life. He wasn't so good with the masses of people, large groups, but in smaller groups he could convince everybody there, and as a consequence -- why he lived with these people day in and day out -- he was able to get good support. They'd say, "Well, old Lyndon's

[158]

sort of off track on this but we've got to support him, help him out." Stuff like that. And there was nothing that was more deep in the hearts of those Texas people than segregation. Many of them -- most of them -- were against any change in it at all. So, these are things that you have to remember when you think of the times when Mr. Truman came in. The war was still on and soon thereafter the aftermath of war, people just hollering and yelling. You talk about Vietnam -- they were hollering and yelling "Get our boys back home" raising sand about it. One guy would say this boy got back here first and the other fellow got delayed. Why? The President got all sorts of pressures on that, and immediately, why, things began to happen. The economy would have to be adjusted to a peacetime level. Then the Communist scare commenced cropping up, and pretty soon you had

[159]

all the problems incident to rehabilitation in Europe, the Truman Doctrine, the Marshall plan, all those things it just was amazing, the foresight this man had.

HESS: On the subject of the political events of 1948 I have found where you spoke at a fundraising dinner in Little Rock, Arkansas on February the 19th of 1948, and that was the same night as the Jefferson-Jackson Day Dinner was being given here in town -- in Washington, D.C. - - and according to the newspaper reports the people who were assembled there were antagonistic toward the President, due to the ten point civil rights message that had gone to Congress on February the 2nd, which was seventeen days before. Do you recall that?

CLARK: I sure do. As a matter of fact the President made a closed television talk to the Arkansas

[160]
dinner.

HESS: There was a telecast at the dinner?

CLARK: Yes.

HESS: What was the atmosphere and the mood?

CLARK: Oh, it was terrible, this Governor (his name will come to me as we talk along) but I've forgotten his name. He gave a reception at the Capitol rotunda that afternoon, and I went up there and you could feel sort of a coolness, you know, the air was so thick you could almost cut it. That night, why, Sid McMath -- later Governor -- told me of the planned walk-out. Sid was a friend of Mr. Truman's. He said, "You know, the Governor is going to try to keep us from presenting Mr. Truman through this closed TV circuit, and also, when it comes on -- if he is not successful -- why, he's, got it planned that people will start getting up and leaving the hall."

[161]
HESS: Just getting up and walking out.

CLARK: Yes. Walk out on him. I was speaking about the time -- he wanted me to get through ten minutes before the President came on -- I kept speaking after the ten minutes and he kept tugging on my coat for me to sit down. I kept on speaking until Mr. Truman came on and thus averted a mass exodus of the hall.

HESS: And you knew what he had in mind.

CLARK: But that scamp arranged so that most of them left. I don't know whether you saw in *Life Magazine*, but they had pictures of the people vacating seats. And then they had a big squabble over who'd get the money; whether it would go to the Arkansas Democratic Committee or whether it would go to the National Committee, and they held that money down there. I remember Les Biffle went down

[162]
there several times -- he was from Arkansas -- and tried to get that money. And eventually McMath -- Sid McMath -- became the Governor -- he was the one that was for Truman and the other Governor was against him. I've forgotten his name -- he was an oil man. Finally, why, Les and Sid got them to give the National Committee 50 percent, I think. They were really hot against Mr. Truman. I go down there now and people still tell me about this dinner that night. I

get down to Arkansas three or four times a year. I happen to have warm friends there in the Bar and the Chief Justice is a close friend of mine.

HESS: Judging from the mood there that night, how great did you think the possibility would be that certain states in the South might walk out at the convention and set up their own party, which, indeed, did happen.

[163]

CLARK: Well, I was satisfied we'd lose the South. I didn't think we'd -- we were going to have to get it from other areas, and...

HESS: Did you discuss this with the President after you returned?

CLARK: I did.

HESS: What did he say?

CLARK: Well, he said he thought so too.

HESS: He thought the South was going to walk out.

CLARK: He was going to have to concentrate on Illinois, New York, and other places, and he commenced to sending me around. He and I went together out to Milwaukee, I believe, yes. Anyway Hubert Humphrey was the Mayor, that would have been Minneapolis.

[164]

HESS: Minneapolis, Minnesota that year.

CLARK: Yes, and he made a speech. I went out there ahead of him as sort of an advance man. You remember Clark Clifford was on the train, and we had sort of a barnstorming train deal, and sometimes I would go ahead and meet with some of the people. He told me out there that night, I remember -- he was going on out to the West -- that we were going to have to get some of the states that we had not thought we'd need because we'd thought that we would get the South, but we decided we were going to get it. I went on from there to Montana, and Utah, and all through there making speeches. Then we started working -- concentrating on New York, Illinois, areas where the black populations were heavy.

HESS: Was this before the convention? Was this

[165]

the June trip? The so-called "non-political" trip that Mr. Truman took out West in June? So, at that time he was pretty sure that the South was gone.

CLARK: Would be against him -- and it turned out that way. He was absolutely right. He was a superb politician. He knew what it's all about.

I remember we were over at the White House one time -- we were worrying about Mr. Eisenhower. He never would say whether he was going to run or not.

HESS: That was about this time.

CLARK: It happened about this time.

HESS: Because there were many people at this time who wanted Eisenhower to run.

CLARK: Oh, he was over in Europe, you know.

[166]

HESS: Yes. Jake Arvey was one from Chicago, who liked to be called Jacob at that time, and Jimmy Roosevelt out in California. What do you recall about that "boomlet" for Eisenhower ?

CLARK: Well, we were trying to get some statement out of him as to what he would do, and just for our own information. We finally decided that Ken Royall -- I think the President made the decision -- that he would approach Eisenhower over in Europe, and see if he could find out. Well, he couldn't find out. And he never did tell us until about -- as a matter of fact he had an office up there. I don't think he put it in, but he had a headquarters up there at the convention in Philadelphia when Truman was nominated -- Eisenhower did. But Ken would always say, "Well, we're going to find out pretty quick." But he wasn't able to come through

[167]

with it. I think down towards the end, why he decided that he wasn't. But I remember we tried to guess...

HESS: Mr. Royall was particularly close to "Mr. Eisenhower," as I recall.

CLARK: Yes, he was. Yes. He made speeches for him, although Royall was a Democrat, when he ran.

HESS: I have read that Mr. Royall has stated that if Mr. Eisenhower would have run -- he told the President this -- that if Mr. Eisenhower would have run he would have had to support him.

CLARK: I don't know. I think so. Of course, it was unfortunate that the American people would be swayed by those circumstances. We really do play it up, wars and things like that much greater than we should have. We've had two or three Presidents who never would have been Presidents

[168]

in the world if it hadn't been for war -- like [Ulysses] Grant and Eisenhower, too. And, as it turned out, why, of course, it didn't hurt the country any. He was a fine man. I loved and played golf with him some. He certainly was a caretaker, so far as the Presidency was concerned.

Just to show you the circumstances Mr. Truman had, why, we tried to get somebody that'd head up the fundraising, and that's pretty important. We tried to get hold of [David K. E.] Bruce's brother, who was Ambassador down in South America somewhere.

HESS: I think Argentina, but I'm not sure.

CLARK: He telephoned him over at the White House one night -- I had been over there for dinner. And they have a scrambler -- telephone conversation scrambler, you know. It was scrambled so we couldn't

[169]

understand it either.

HESS: Can't hear it.

CLARK: We just couldn't find out whether [James] Bruce would do it or not; we finally either sent somebody down there, or got the message somehow, that he wouldn't do it. We finally got Louis Johnson to do it.

HESS: Louis Johnson.

CLARK: Louis Johnson did it.

HESS: Did he do a pretty good job?

CLARK: Did a good job, good job, under the most trying of circumstances. In fact, I went from Manhattan, New York in a caravan with the President, an open car -- we went over to Brooklyn for his speech, and we didn't know whether the Committee would have money enough

[170]

to put it on the radio or not. In fact, then TV was not near as strong as it is now. I got out and telephoned -- they had such enormous crowds and that's why the President figured he was going to win. He'd have these enormous crowds. Our car moved so slowly -- the caravan did -- that I got out and got me a pay station, and called up Louis Johnson, and he said, "Well, we just got the money -- just got enough money to pay for the radio." And I told the President and he made them a "stem-winding speech" over there in Brooklyn. And that was true all over, most of the people didn't think he was going to be elected. I think he and the people right around him like Clark and them did. I know I won \$500 on it -- that was \$50 against \$500.

HESS: That was a pretty good bet.

[171]

CLARK: On a bet.

HESS: And you picked up \$500.

CLARK: \$500.

HESS: Now, this is something that I've xeroxed from the *New York Times*, and this was in July shortly after the convention, and it's an article by Anthony Leviero from the *New York Times*, and it mentions the first of the new high councils was held in July -- July 22nd. The White House declined to identify those who attended. "It is possible, however, to have named some of the leading members of the group who will attend the conferences from time to time." And, skipping on, it says, "Then there is the question of money. The Democratic Party needs money, although its leaders asserted that it is not as bad off as some

[172]

say it is, and the money raisers are active. Two names that are mentioned in this field are Cornelius V. Whitney, Assistant Secretary of the Air Force and William D. Pawley the former Ambassador to Brazil." This particular meeting that was held on July the 1st and the White House would not say -- wouldn't identify who was there.

All right, now this sheet comes from Matthew Connelly's appointment books that are on file at the Truman Library, and this is July the 22nd, and you can't see it very well here, but it was the last appointment of the day and whether this is late in the afternoon or the evening, I'm not sure. But off the record in the President's study and the people who met with him were yourself, Charles Sawyer, Oscar Ewing, Oscar Chapman, Leslie Biffle, William Pawley, Senator Carl Hatch, Stephen

[173]

Early, Samuel Rosenman, Matthew Connelly. Do you recall if this particular meeting was when they were trying to get someone to be the chairman of the Finance Committee?

CLARK: And Whitney said he'd take it, and then he came down and the President thought he was going to take it, and he told him he couldn't take it.

HESS: Did he give any reasons?

CLARK: Well, he had some lame -- I've forgotten what it was, some lame excuse. I've forgotten what it was. It was just because he didn't think he'd back a winner I'm pretty sure.

HESS: What do you recall about William D. Pawley? Was he asked?

CLARK: Well, I don't remember us asking Bill. I

[174]

know Bill real well. Bill was, I think at that time, was Ambassador in Chile, somewhere down there. He didn't enjoy the confidence that the people put out for publication. I don't think that he was asked. He's a rich man, and a very fine one. But I don't think that they -- they may have though -- not in my presence. I know I didn't approach him. Bill would usually send -- as a matter of fact he sent me his resignation for me to give to Mr. Truman, as Ambassador, and I talked him out of it. He mailed it to me.

HESS: Because he wouldn't take this particular...

CLARK: No. It was after that.

HESS: Way after this particular incident.

CLARK: Way after he was reelected.

HESS: Were there other meetings held at the White

[175]

House with this group or with other groups?

CLARK: I don't remember that group in particular. I think most of the meetings that I attended over there had been Clark Clifford, and groups like that. But that seems to have been a prestigious group that they were using possibly from the standpoint of prestige to get these people to do it. Was Royall in on that? I don't think he was, was he?

HESS: No.

CLARK: I don't think he was there that time.

HESS: No. He's not listed. Quickly, going back a couple weeks to the convention in Philadelphia, as you will recall, when Mr. Truman gave his acceptance speech, which was late at night -- we thought it was pretty late until Mr. [George] McGovern's recent acceptance, which

[176]

was later -- and he ended by calling Congress back into special session.

CLARK: Right.

HESS: What do you recall of the origins of the idea and the advice to the President to call Congress back into special session and to perhaps to set them up as the main opponent?

CLARK: Well, I don't know whether there had been anything in the press prior to that time or not, but I think that decision had been made a week or two ahead of that.

HESS: Were you in on any discussions about Congress -- calling it back?

CLARK: I was in on some discussions, but I think the final decision was made when I was not present.

[177]

HESS: Okay. Now this is what we call our famous unsigned memorandum of June the 29th, 1948. This was just before the convention and it's, "Should the Congress call Congress back" this particular one is from the papers of Sam Rosenman, but there is also a copy of this that's in Clark Clifford's papers at the Truman Library, and of course since it's -- we can't find a signed copy -- we don't know where the original is. We don't know who wrote this particular thing. Have you ever seen that before?

CLARK: Let's see. No, I don't remember it. You weren't able to trace it?

HESS: Oh, we've got two or three groups of people who take a little credit for it. Did you ever hear of the Research Division of the Democratic National Committee?

CLARK: Yes.

[178]

HESS: Bill [William L.] Batt was the director, Kenneth Birkhead was assistant director. They had various people on there, such as Dr. Johannes Hoeber. This is where David Lloyd comes into the picture. He was a member of the Research Division. There are those that say this is a product of the Research Division. Did you ever hear of the group that met at Oscar Ewing's apartment on Monday nights for about two years prior to this? Oscar Ewing, Clark Clifford, Leon Keyserling, C. Gerard Davidson -- a group of people, most of them in second level positions -- not Cabinet members, but Assistant Secretaries, to formulate view that they thought should be placed before the President -- liberal views. Did you ever hear of that group?

CLARK: I think I was over there once or twice. I remember one night I was over there, and I

[179]

believe we went on to the circus, as I remember.

HESS: Went on what?

CLARK: To a circus, the Barnum and Bailey Circus.

HESS: After that meeting.

CLARK: After the meeting, yes. But I didn't attend over one or two of them at most.

HESS: Do you recall what the subjects were under discussion the nights you were there?

CLARK: Well, the time I was there it was largely about Eisenhower.

HESS: What was the general tenor, did they think that...

CLARK: Well, whether or not we were going to be able to finally get him out of the picture? Whether he would run on the Republican ticket?

[180]

Just what was he up to? Some thought that he might announce himself as a Democrat and try to get the nomination, but most of them thought not. Ken Royall thought he would be a Republican. I don't think he'd ever been registered.

HESS: That's right. I think that's the way it is. Back to the convention, and back before Mr. Truman received the nomination, in your opinion, how great was the possibility that the party might have selected someone other than Mr. Truman even after he made it clear that he would like the nomination?

CLARK: Well, I rather doubt if anyone could do it. The prestige and power of the White House, particularly Mr. Truman, why, it would make it impossible, although there was some that thought that there might be some problems. Indeed, some thought [Alben W.] Barkley was

[181]

going to try to steal the convention, but I don't think Mr. Barkley had that in mind at all.

HESS: Were those thoughts expressed before or after his "keynote" address?

CLARK: It would be before.

HESS: Before just a little bit.

CLARK: Oh, yes, before, yes. He did have a good "keynote" address and they thought that that was a -- of course, Barkley was a good public speaker. He was a little long.

HESS: Well, he came from that era.

CLARK: He didn't have any terminal facilities, and he always spoke without any manuscript. I remember I was with him one time and he threw his manuscript down in the middle of it as he was having trouble reading, and he said, "Well, I don't write well and I read worse."

[182]

HESS: But he spoke well, so that's what he would do.

CLARK: He always had some anecdotes and things that were appropriate and went over good. But there were quite a few that thought that he was going to steal it. Then they thought maybe Bill [William O.] Douglas might run too.

HESS: You know Mr. Truman phoned Mr. Douglas, I think he was out on the west coast at that time, and asked him if he would be Vice President. I guess the story is Mr. Douglas said he would like to think about it overnight and then turned it down. In all the years that you've been on the Court with Mr. Douglas have you ever heard him speak about it?

[183]

CLARK: Yes, I heard him.

HESS: What did he say?

CLARK: Well, he said that he admired Mr. Truman very much, but he thought that his obligation was to the Court; and he said that Roosevelt had his name on the list, too, for Vice President.

HESS: In 1944 there was a so-called -- I think that we discussed that last time.

CLARK: He turned that down.

HESS: The Truman-Douglas letter that Hannegan had and whether it was Truman-Douglas or Douglas-Truman. Yes, we discussed that in our last time.

CLARK: I think that, while at first Bill was somewhat dissatisfied here it didn't occupy as

[184]

much of his time, he was young -- full of vim and vigor -- well, by that time, I think, he had been on the bench then about five years. Oh, longer than that -- '48, about eight years -- so he had become mellowed, and I don't think that he would actively sought the nomination; although I didn't know Bill too well, then. I had been with him on many occasions -- he's very close to Lyndon Johnson -- and I kept on telling them he wasn't going to run, but...

HESS: Do you think that he would have accepted the first position if the party had called upon him?

CLARK: I don't think so.

HESS: Were you present at the convention at the time the speeches were given on the civil rights plank, and the vote on the two different civil rights planks?

[185]

CLARK: Yes, I was there the whole time.

HESS: As I understand, Mr. Andrew Biemiller, who now holds forth down here at the AFL-CIO as their legislative liaison -- he's in charge of legislative matters -- the plank was really introduced by Andrew Biemiller in behalf of himself, Hubert Humphrey, and Esther Murray of California. Then Mr. Humphrey made a talk on behalf of the plank, and then I understand some southern delegates walked out.

CLARK: That's right. Yes, they did. Yes, Biemiller was a good friend of the President's, and a good friend of ours. And a good Congressman.

HESS: At that time he was Congressman from Wisconsin. Were you surprised or not when the southern delegates walked out?

CLARK: No, I wasn't. I don't think Mr. Truman was

[186]

either. I don't believe anybody was surprised. They practically had announced that decision.

HESS: In mid-July of 1948 indictments against twelve Communists in New York City were filed, if that's the correct word, if you make an indictment?

CLARK: Return.

HESS: Return an indictment, and this was shortly before the testimony of Whittaker Chambers and Elizabeth Bentley before the various congressional committees. Now, there was some speculation of seeing this in the press that the Department of Justice moved on those indictments right at that time to try to offset expected reaction to the Whittaker Chambers revelations and to try to show that the administration was not soft on communism. Is

[187]

there any truth to that?

CLARK: No.

HESS: Why were those indictments -- the question revolves around the timing of the indictments of the twelve Communists. Why, right then?

CLARK: Well, we'd had the grand jury up in New York for I'd say almost a year, and it just happened at that time. Indeed, I didn't know about the pumpkin papers until after they had come out in the press. And we had, remember, Mr. [Richard M.] Nixon before the grand jury up there. He was then the chairman of the Committee, or, anyway, he was on the Committee of Un-American Activities; and I remember he at first said he wouldn't give us the so-called pumpkin papers. But when Judge John Knox told him he'd have to hold him in contempt, why, then he gave them. There wasn't anything in them. The pumpkin papers

[188]

consisted of photographic material.

HESS: Microfilm.

CLARK: Microfilm. It was all blank -- the whole thing.

HESS: It was.

CLARK: It was in a little container like you sometimes see film, and Mr. Chambers had contended that he had dropped it for safekeeping down a well in his apartment. They had these wells for air, and he had forgotten about it until all this stuff came up. He had dropped it down there he said some fifteen years before some such time. He thought about it and he went back there and the apartment building was still there and, by George, there that container was -- was still hanging there; and that was the genesis of it.

[189]

HESS: The timing meant nothing on that particular thing?

CLARK: No. I sent my assistant over -- Peyton Ford handled that grand jury. He was my deputy, we'd call him The assistant. But, I sent the assistant in the criminal division over to Baltimore to get the papers and try to get the judge over there to make him give them to us, and we found that they were over here. Mr. Nixon had them and he contended that they were in the custody of the House -- that the grand jury couldn't subpoena them, but we overcame that. There was a grand jury up there all the time. Well, we had been investigating Communist activity for about a year. There wasn't any softness on the part of the Truman administration, but we got it from both sides, some of the criticism was that we were too

[190]

soft and others would say we were too tough. Those were the indictments you were talking about that were returned by the grand jury, and later the conviction was affirmed by the Supreme Court. As I said, Mr. Hoover had put in a network of Communist investigations over the country,

and that was the leading case -- Dennis -- that we filed. We had some other cases -- Yates out in California, one in Colorado, one or two others. We had used New York, because most of the activity was in New York. Some people said we were trying to cover up -- trying to hide the fact that the grand jury was sitting, but we weren't. Of course we didn't put it in the headlines -- the front pages -- but we did have lawyers up there working on it all the time, Jim McInerney, Peyton Ford, and some others. There wasn't anything -- as a matter of fact, we didn't know

[191]

anything about the pumpkin papers. I think the whole pumpkin affair was a concoction of Nixon and Chambers.

HESS: By whom?

CLARK: Chambers. Mr. Nixon was down in the Caribbean, and he called Mr. Snyder, who was then the Secretary of the Treasury, and the Coast Guard was in his Department. Nixon asked if he could get a lift to Miami, and they either furnished him a boat or a helicopter or something; anyway, he got into Miami, and then flew up and met Chambers over in the latter's garden. They took the film out of a pumpkin, you know; sort of smacked of a publicity stunt in the beginning. Then when it shows up exposed and there's nothing on the film, why it certainly indicated that it was a hoax -- certainly no proof of any overt acts.

[192]

So, then we commenced to investigate Mr. [Alger] Hiss. Mr. Hiss's brother was in Covington and Burling, and he came down to see me...

HESS: The law firm?

CLARK: I think he and Dean Acheson came down there together and talked to me about it. I thought the indictment was an injustice to Mr. Hiss, but, at the same time it was returned by a grand jury; I thought that we ought to prosecute it, and I put a young prosecutor named [Thomas] Murphy, who was one of our Assistant U.S. Attorneys in New York, and he prosecuted Hiss. He was convicted on the second trial. I think he had a hung jury in the first one.

HESS: Did you think that was a miscarriage of justice?

CLARK: Well, I did not at the time. But now I

[193]

think it was. I think that, while Mr. Hiss might have been a little bit over-anxious in his activities at the time, it was largely caused by the atmosphere, the climate, with reference to communism then prevalent. The Russians were our Allies, and he possibly thought that if he did do what they said he did, that he thought he was doing no wrong. Of course, I think some of the Communist reports that the FBI made on other cases were just fantastic. It's just unbelievable that some of

the things happened that were reported in various Communist investigations. They must have happened or they wouldn't have reported them, but I think the Communist scare was highly exaggerated. Indeed, the "Saints and Sinners Club" up in New York, they put on a lot of skits you know -- supposed to be funny. They had me up there one time as a "fall guy." This is right before the Hiss

[194]

case and before the election of '48. They had these actors on Broadway (they were finished actors) playing parts on skits that they'd put on. One of the skits was Edgar Hoover and myself. I had called Edgar Hoover to my office and after he got there I'd go looking around the desk to see if there was anything under it. And I was asking Hoover where the Communists were and everything, and they'd get off some pretty good dialogue about it.

HESS: They thought you were looking everywhere for Communists, is that it?

CLARK: Yes. Oh, yes. Then I went to the Gridiron Dinner here one night and they had a song on red herring.

HESS: Red herring.

CLARK: "And the whole Communist thing was a red

[195]

herring," that's what I was alleged to have said in a newspaper story. Then, later on after I came on the Court, why, they had another dinner and they tried to pull some of it on Howard McGrath and he got up and objected at the dinner.

HESS: He did. He wouldn't go along with all this.

CLARK: But I just sat there and took it, it's all in fun. As far as the investigations that we made, some people might have thought it was slow, but at the same time it was thorough. The main thing was it ended in a prosecution that was sustained by the Supreme Court of the United States -- a lot of them are not.

HESS: During the campaign I understand that you introduced the President when he spoke at Rebel Stadium in Dallas -- this was on September the

[196]

27th, and said something to the effect, "And I was with him when he stopped Joe Louis in the courts." Do you recall that?

CLARK: Yes. Well we...

HESS: Instead of John L. Lewis, you'd said he stopped Joe Louis in the courts.

CLARK: "Knocked him out" I think I said. Yes, I was very embarrassed about it. I had been with Mr. Truman -- at Baylor University down at Waco, they were going to give him a degree, and then they welshed on it, because somebody said, "He was a whiskey drinking old man."

HESS: The Baptist university didn't want to give a good Baptist a degree, because they didn't think he was a good Baptist.

CLARK: Pat Neff was the president there. He used to be Governor of Texas. Finally Baylor came around

[197]

to awarding the degree. I went down there and introduced him on that occasion. No, I didn't either. I was with him and I got a telegram that the John Lewis case had just been decided in the Supreme Court, and went up and put it on the lectern, and he announced it himself in his speech. So, during the 1948 campaign when he got on the whistle-stop tour on the train, why, Mr. Rayburn and I met him at El Paso. Mr. Lyndon Johnson got on also -- he was running for the Senate. He was in the House and got on with us. I tried to get him to take my lower berth but he wouldn't do it. He took the upper berth and I had the lower berth on that train all the way from El Paso to Bonham, Texas. We stopped at every town, every stop. Mr. Truman would make them a speech. The Secret Service would throw a rope out around the back of the last car so people could not

[198]

come to the back end of the train. I would go along the rope, shake hands and try to get ideas of what the people were thinking about. The President usually would introduce Lyndon as the next Senator, and he'd be on the platform with him.

HESS: And after you would get back on the train would you discuss what you would hear?

CLARK: Yes. I'd tell him what they talked about and what points of his speech that they thought were effective. We got to Dallas, why we had the meeting out at the ball park and my mother was there -- we were from Dallas you know -- I just got flustered or something, anyway I really did say: "I want to present the man that knocked out Joe Louis." Joe Louis had never been knocked out.

[199]

HESS: In that election what effect did you think that Henry Wallace and the Progressive Party on the left, and Strom Thurmond and the States Rights Party on the right, would have on Democratic candidates?

CLARK: Well, I thought it was going to be pretty difficult because Mr. Wallace had a very strong following and – ultra-liberal -- I would say the fringe; while Thurmond of course, had the staunch backing of all the "died in the wool red-necks" down in the South. I was satisfied from what I'd found out from traveling down there that they were going to lose the South; but I didn't think that Mr. Wallace would be able to cut in enough in New York vote or Illinois vote to have us lose those.

HESS: Yes. He did cause the loss of New York and not Illinois...

[200]

CLARK: Not in Illinois. Or California.

HESS: ...or California, that went to Mr. Truman.

CLARK: Yes.

HESS: All right. Many of the southern states did go for Thurmond. I think in one state Mr. Truman's name wasn't even on the ballot. But in Texas -- Texas went heavily for Mr. Truman. Mr. Truman had 750,700 votes, Dewey had 282,240, Thurmond had 106,909, and Wallace got a few down in Texas, even he had 3,764, and, so, Mr. Truman's edge over Dewey was 468,460, a big edge over Dewey. Why? Texas is considered usually a southern state. Why the big edge for Truman in Texas when he lost the other southern states?

CLARK: Well, of course, Louisiana we lost. We didn't have a "rooster" in Louisiana. We filed a suit down there trying to make them use the "rooster."

[201]

Peyton Ford had it filed through local people. But, when you don't have the "rooster," that's the emblem of the Democratic column in Louisiana -- why you don't get the vote. In Texas, why, I think there would be at least two reasons for that: One, was we were on the Democratic ballot, and Texas was still pretty heavy Democratic at that time. Two, Mr. Truman while perhaps most Texans would have said at the time that he was too liberal on the civil rights, why, at the same time I don't think that they felt that overcame the manner in which he had handled the foreign policy -- the ending of the war, and things of that kind.

So, then the fact that Texas was strong for him on dropping the bomb, and getting the war over. I rather think that on balance, why, they thought, well, we'll be protected by the Congress on the civil rights and he's good on everything else.

[202]

HESS: You know back in those days people regarded Texas as southern, some people regarded Texas as western. How do you regard Texas?

CLARK: Well, I'd say it's western. We are more western than we are southern. Geographically most of most of our land is in the West, certainly Midwest, and I think our people resemble westerners more than they do southerners. We do have, of course, areas (where Mrs. Lyndon Johnson lived) over in East Texas that is quite southern, just as much so as Louisiana. But Mr. Johnson was more of the central middle part of the State. We call it the "hill country." Beginning about Dallas-Ft. Worth on west it was much more West. Fort Worth we always said was the "Gateway to the West." It is just thirty miles from Dallas, but we always thought of it as being part of the West. The rest of the State being Sam Rayburn's and Wright Patman's

[203]

country -- from Dallas to Arkansas and Louisiana was mostly southern.

HESS: That's East Texas. West Texas is north and west of Dallas. Where were you on election night and what comes to mind?

CLARK: I was here in Washington and I went over to the offices of the National Committee. Mary (my wife) and me had bought a TV set; TV had just come in, and very foolishly I tried to move the set around to where we'd have a little bit better view. The TV man had come out there and put the set in, and I should not have touched it; but I moved it around some and it wouldn't work. So, we went on down to the Committee and stayed down there. I think it was in the, I believe, the Mayflower.

HESS: Did they rent some rooms in the Mayflower that

[204]

night?

CLARK: Down in the ballroom, I believe.

HESS: Were the regular offices in the Ring Building at that time?

CLARK: Yes. I went by there too. Yes. Across that little parkway on Connecticut above the Mayflower?

HESS: Yes. Right across Connecticut. What was the mood when you arrived at the Mayflower - the Democratic?

CLARK: Well, early it was, I'd say -- 7, 8 o'clock -- it wasn't too good, but as things developed, why, we commenced getting good reports from Illinois -- but not too many from California until late at night -- why, the chances of winning got a lot better. I remember some of the newspaper reporters got all excited. One of them took

[205]

my bow tie, one of the reporters from the AP. We were over in the Ring Building. He gave me his tie. I still have it. He gave me a four-in-hand tie. He wore my bow tie.

HESS: He wore your bow tie. Did you put the four-in-hand on that night?

CLARK: Oh, I had on a bow tie that night when I went down there. Yes, I wore the four-in-hand after he gave it to me. He wore mine, and I wore his.

HESS: Is that about the only time you ever wore a four-in-hand?

CLARK: Well, now and then I'd wear them on the Court, now and then, but not often -- sometimes when I sit, not too many times.

I've forgotten this man's name, but he was in charge of the AP there. It wasn't Paul Miller. I think that was before Paul. I'm

[206]
not sure.

HESS: August the 24th, 1949 you became a member of the United States Supreme Court and J. Howard McGrath took over your old post as Attorney General. When did the President first broach the subject to you of your promotion?

CLARK: Well, Mr. Justice Murphy died soon after the Court adjourned in 1949. I remember I came up to the Supreme Court to bid the Court goodbye and Justice Murphy was going out of the basement in his car and I stopped and shook hands with him. I guess that must have been about the middle of June, he died I think in July -- died in Detroit. Oh, I'd say soon after that -- two or three days -- why the President called me and asked me to come to his office. I went over and he said, "Well, I was just thinking about the vacancy up in the Court,"

[207]
and he said, "I am thinking of a package job and wished to know what you thought about it. You don't have to tell me today. I want you to go and talk to this man and see what you both think." So, the President said he wanted Howard McGrath, who was then in the Senate, as Attorney General. He said, "Do you remember when I appointed you, why I told you to get somebody that you thought would be a good man to succeed you. And I think he would be, and I don't think that it's good to have the chairman of the Committee to be in an official position, so I'm going to put Bill Boyle in the chairmanship. I want you to go and talk to Howard, and you all let me know." So, I talked to Howard, and of course, Howard was pleased and I was pleased. So, we went over there together and talked to him. Then he announced the appointments. They had two or three weeks confirmation problems with

[208]

me. The Communist sympathizers all came up and testified against me; however, I got pretty good support from the liberal groups. Senator McCarran was chairman, and he asked me to come up, but I told him I didn't think that a person who had been nominated to the Supreme Court should testify, that it jeopardized his future effectiveness on the Court, that he would invariably testify to something that would plague him. So, he agreed with me, he said, "I'll have to tell the Committee that you said that you'd rather not come, and we'll see what they do." So, they decided they would not invite me; so I didn't go. I received eight votes against me. At that time there were only 96 votes in the Senate though. Neither Hawaii or Alaska were states.

HESS: That's a pretty good average.

[209]

CLARK: Yes. It was all right.

Senator Ferguson opposed me and he was very vehement about it. Senator Connally and Senator Lyndon Johnson. Johnson was temporarily seated, subject to an investigation they were making on the primary election in Texas where he won by 87 votes.

HESS: When he picked up the nickname he never did like, of "Landslide Lyndon."

CLARK: Yes. That's right. So, he had a vote, though, and he was very potent -- although he was quite young -- hadn't been in the Senate more than six months. Senator Connally was my leader and did a marvelous job of it. Senator Johnson did the in-fighting and with Senator Russell handled the procedural maneuvers. Both were very effective. I was disappointed in Senator

[210]

Vandenberg, and he called me up and he said, "You know, I would be for you, Tom; but my colleague Senator Ferguson is against you and it would cause me some political trouble."

HESS: Why was he against you?

CLARK: Ferguson?

HESS: Yes. Why was Ferguson against you?

CLARK: Oh, Ferguson, he was the Kansas City vote fraud fellow. He tried to pin that on me.

HESS: Oh.

CLARK: And all the Communist stuff as well. He had a direct pipeline to the F.B.I. No question in my mind about that.

HESS: He did?

CLARK: Oh, yes. Ferguson -- he was getting reports

[211]

before I got them; before they were announced.

HESS: Who did he know in the F.B.I. that well?

CLARK: I don't know who it was. I don't know who it was.

HESS: The man at the top maybe.

CLARK: I thought at the time it was Lou Nichols, but I found out it wasn't him. I don't know who it was. Somebody up towards the top. Perhaps Mickey Ladd. Ferguson would know about some investigation before I did and he would make some guarded statement about it. He was very, very vitriolic. He was mean about it. You bet he was. He was later put on the Court of Military Appeals. We made up, rather there wasn't any use being mad. It was all over with. But, I think he went way out of his way to try to destroy me. He didn't

[212]

succeed.

HESS: He didn't succeed.

We discussed in our first meeting some of the men who were appointed by Mr. Truman. Mr. Harold Burton was the first appointment in 1945. We discussed that last time. Fred Vinson was appointed in 1946, you were appointed in '49, and then Minton, also in '49. As you know, the four gentlemen that had been appointed to the Supreme Court by President Nixon are spoken of as "strict constructionists" of the Constitution. This is usually the label that is placed on them. Do you think that there is a similar label that might -- what kind of label might be placed upon the four men -- you and the three others who were appointed by Mr. Truman? Any kind of label? Do you fall into a category?

CLARK: Well, I don't go too much for labels. I

[213]

think it is incorrect to tag the Court as the Warren Court, or a [Warren E.] Burger Court. There are nine Justices and certainly the Chief Justice couldn't control the Court. I think it is accurate to call people liberal or conservatives; for example, Mr. Roosevelt thought that Judge Felix Frankfurter was going to be a flaming liberal, but he turned out in many areas to be a rank conservative. I know that Mr. Eisenhower was very much disturbed over Chief Justice Warren and Justice Brennan. He told me once or twice when I was playing golf with him that he was disappointed.

HESS: Mr. Nixon?

CLARK: No, Mr. Eisenhower. I haven't heard Mr. Nixon say anything at all, but I'm satisfied he'll be disappointed too before he gets through. He's going to find that the Court just

[214]

can't be controlled by presidential appointments. If a President thinks that he can control the Court by the appointment of new members, why, he is going to be sadly disappointed. I don't think that he ought to try doing it.

HESS: Why is that?

CLARK: Well, I think that what they have said previously is of little relevance to how they will vote. When they come to the Court the circumstances are much different, and the weight that's upon them is of such different proportions that they just are not influenced by whatever they may have said in the past. As I used to say from the bench, when some advocate would say, "You said this when you were Attorney General." I'd say, "Well, I was Attorney General then. I'm a Justice now." I do not think any of us were rank conservatives.

[215]

Perhaps the most conservative one would have been, maybe Burton -- it would be a toss up between Burton and Minton. Some people would say that in fiscal matters Vinson was; he was the former Secretary of the Treasury. But he wasn't in race relations. He wrote many opinions involving the Government and other cases on individual rights, like *Shelley v. Kramer*. I would say that Justices were people who came here, and they saw cases and they decided them the way they saw them. They didn't go by any conservative or liberal tags. It just happened that some of their cases you might say are strict construction cases and others are not. Certainly my opinions could not be classified as "strict construction." Take four or five cases that I wrote (out of my two hundred-odd opinions) and they might qualify as reflecting "strict construction" but the Court has been the other

[216]

way for years. Take the steel case in which I voted against the President, it wasn't based on a strict construction of the statutes involved. It just said that the President ought to follow the rules that the Congress had laid down, as I saw them. Such instances there were statutes on the books that the President was obliged to follow; that was my point. You take...

HESS: You thought there was a statutory route that he should have taken to this, rather than seize the steel mills?

CLARK: He should have exhausted, I said...

HESS: He should have exhausted.

CLARK: ...and then seize them if he failed after following the statutory procedures. So, I don't think that's being rank conservative;

[217]

it was merely following the rules of law Congress had laid down. And then, certainly, a fellow with my background that would join *Brown v. Board of Education* and that line of cases wouldn't hardly be a conservative -- a rank conservative, to say the least. No, I didn't think about it, to tell you the truth, one way or the other, whether I was being conservative or not. I just called the case as I saw it, and I rather think that I was trying to be what I'd call a constitutionalist, if you had to have a tag. And that would be that I tried to interpret the Constitution in the light of the necessities of the time. It's not a document that was written in a vacuum, and the framers did not put it in a straight jacket; and those who have the function and duty to interpret it should interpret it in the light of the necessities of the period in which

[218]

it evolved. And if the necessities of the State require a decision in favor of the State, why, so be it. Certainly in that case the rights of the individual companies should prevail, and that's the way I voted.

HESS: Let's see if this squares with what you just said and your views. Now this deals with the steel case of 1952 and these are excerpts that I've taken from the book *Civil Liberties and the Vinson Court*, by C. Herman Pritchett.

While Judge Pine's action in enjoining the steel seizure was upheld by the Supreme Court, it is important to understand that his denial of inherent powers to the President was not ratified by the Court. Only Black and Douglas approved the Pine position that the President was limited to expressly granted powers...Clark fully accepted the doctrine of inherent powers...

How, then, does it happen that the government lost the case? The answer to this question requires some analysis of the position taken by the six majority justices, each of whom wrote an opinion....

[219]

Justice Clark explicitly affirmed that 'the Constitution does grant to the President extensive authority in times of grave and imperative national emergency. In fact, to my thinking, such a grant may well be necessary to the very existence of the Constitution itself.' But he joined the majority because he believed that Congress had provided a statutory method of seizure in the Selective Service Act which the President had ignored.

CLARK: Correct, correct. As a matter of fact there was quite a clamor for me to disqualify myself in that case. "Get out of it." The reason for it was that I'd written a letter to Senator

[Elmer] Thomas, who was then the Senator from Oklahoma, chairman of the Labor Committee, and he had written me a letter asking me about the constitutionality of some of the powers granted to the President in this labor bill that he had proposed, and he wanted to know whether I thought they were constitutional. I wrote him back and told him that I was sorry I couldn't

[220]

tell him whether it was constitutional or not, because I represented the President and I only answered questions for the President. However (I shouldn't have done it) but I did add a postscript paragraph in which I said, "However, I might say that the inherent powers of the President of the United States are very large." Well, they all said I'd prejudged it -- that I was going to decide in favor of the President.

HESS: And you didn't did you? After you voted in the manner that you did, which was not the President's way, did you ever talk to him about that?

CLARK: No. I never have. Some of his people have talked to me and they were very much disturbed over it. They didn't like it at all. I talked to the President many, many, many times since that time, and one, as I indicated a few minutes

[221]

ago, not too long before his death. At no time did he mention it. Of course, I didn't mention it, not that it was a sore subject with us at all. I think he understood my functions. He knew his pretty well, and so there wasn't any point to mention it. I think he knew that in my heart I'd done what I thought was the correct thing for me to do under my oath. He was not going to criticize me for that. He never did, as far as I know. Some of these people seemed to think that he was disturbed about it, but I rather doubt that. Some people tried to visit some reprisals on me, but they never did come about.

HESS: Who?

CLARK: Well, some, for example, over in the House committee they tried to investigate some of my actions when I was Attorney General. It all came

[222]

up after I decided that case.

HESS: Now this was in June of 1953 when you declined an invitation to testify before a House Judiciary Subcommittee concerning some of your activities.

CLARK: Right.

HESS: And on the ground that such appearance would be in violation of the independent position of Justices on the Court. According to newspaper reports at that time two issues that

they had in mind, they wanted to talk to you about, were the selection of your subordinates in the Department of Justice, and your actions in the vote fraud case, right?

CLARK: Yes. Then one other committee wanted me to come over and talk about the Senate subpoena of Mr. Truman, and me, too. He wasn't about to

[223]

go, of course, they wanted us to testify about Communist infiltration in the State Department. The fact that I was supposed to have received a series of memorandums from the F.B.I. concerning some State Department employees. So, I decided I would not testify. Mr. Acheson came to see me about it out to our apartment late one evening, and we talked about it some. I told him I hadn't come to rest on it, but later I decided that I shouldn't do it. After all a Justice has to maintain his privilege of not being involved in these political squabbles, and that's all it was. It was an effort to try to smear me and Mr. Truman also. I knew that he wasn't going to get smeared, because he was above it, and I didn't care whether I was or not.

HESS: In your opinion, what were Mr. Truman's major accomplishments in his administration? What were his major failings?

[225]

CLARK: Well I'd say his major accomplishment was the transition from the war mobilization into a peacetime one. He did a tremendous job there, and the best that I know of of any time. I haven't been in but two or three wars, but they tell me that after the Civil War it was really terrible, and after the Spanish-American War it was bad, although that was a small operation. But through him, why, we were not only able to transpose our military operations into civilian work, but in the foreign field we were able to switch a growing feeling of communism into one of stability. It was all through him. As a matter of fact he asked me to broadcast a speech over into Italy about the time that he was developing his Truman Doctrine, and tell them that they would not be able to come here, unless they did disavow their allegiance towards these Communists. And, so, I think -- many people

[225]

won't agree -- but I think that was one of his major accomplishments. The other, as I have already indicated, I think was in the domestic field, and that is in the area of civil rights. I think for one who came in under the circumstances in which he did, to be able to have accomplished as much as he did, and to lay the framework for the great advancements that have been made by Democratic administrations since is really phenomenal, really phenomenal. Then, in the area of the economy and things of that kind, why, he exercised, I thought, restraint. He didn't let the Government get into such enormous proportions employee-wise. He didn't have overawing budget deficits, and things of that kind that we have presently.

One thing that we don't have now, but he certainly did have, and that is integrity with the people, they believed in him -- there wasn't

[226]

any gap in credibility.

HESS: What has become to be known as the "credibility gap."

CLARK: "Credibility gap." There wasn't any of that, and they knew that when he said what he was going to do, "come hell or high water" it was going to be done.

HESS: They might not like it, but that's what he would do.

CLARK: They admired him for it. That's why he's going down as one of the great Presidents -- I'd say one of the five greatest.

HESS: What would be a major failing of the Truman administration?

CLARK: Oh, I don't -- having been in it -- why I don't see any, but I suppose that some people would

[227]

think of something that wouldn't be too good. I was only...

HESS: Let's leave that for the people who weren't there.

CLARK: Yes. All right.

HESS: What is your estimation of Mr. Truman's place in history?

CLARK: Oh, I'd say right at the top. In fact, I made a speech down in Kansas City just before he died -- about two or three months, I guess -- say it was in November, I believe.

HESS: What was that gathering? That was a civil rights gathering.

CLARK: Yes. They gave him an award. It was all of the organizations in the United States that were working in the civil rights field. That

[228]

was official as well as unofficial organizations -- like NAACP and groups like that. There was a nice crowd, and they gave him an award for his leadership. Of course, he wasn't there, and I was asked to accept it for him. I took it out to the Library the next day but unfortunately I was not able to see him. He was not able to see anyone. I talked to Mrs. Truman, though. I think that that last meeting reflects my views and that is that he was the catalyst that brought about the

movement that eventually led to where are now. And this young man, who was in the Georgia legislature, what's his name -- he had a case up in the Court. He was there, too.

HESS: Julian Bond?

CLARK: Julian Bond made a rip-roaring speech, praising Mr. Truman, and, of course, also he was campaigning for McGovern at the time. He got

[229]

in a few licks for McGovern. It was before the election, so it must have been in October.

HESS: Mr. Truman has been dead less than two months now. Looking back over your association with him and you are going to pick out one high spot, what would be your favorite memory of Mr. Truman?

CLARK: Well, of course, my personal association with him. He had a profound effect upon my life, and I'm grateful for the opportunity to have been able to, not only serve with him, but be his friend over the years. I deeply appreciate the many, many things he did for me -- not only from the standpoint of appointments that he gave me, but also from a standpoint of giving me the privilege of associating with him and knowing him intimately and having some of his personality rubbed off on myself.

HESS: Have you anything else to add on Mr. Truman

[230]

or your part in the Truman administration?

CLARK: Well, I don't think of anything, you're a pretty good picker; you've picked my brain.

HESS: Well, we've spent all afternoon on it. Thank you very much, sir.

CLARK: Yes. Good to be with you again.

[231-235]

INDEX

Anaconda Company case, and the Truman Committee, 7-9

Atomic bomb:

control of, debated in Cabinet, 83-85

use of, 88-90

Barkley, Alben:

and Democratic National Convention of 1948, 181-182

- and Truman, Harry S., 86-87
- Biddle, Francis, 79-80
- Biemiller, Andrew, 185
- Black, Justice Hugo, 52-53
- Burton, Justice Harold H., appointment to Supreme Court, 44-47
- Busch, Adolph, 73-74
- Byrnes, James F., and Democratic National Convention of 1944, 28-29
- Cabinet, role of, 81-87, 90
- Chapman, Oscar, 151-152
- Civil rights, 97-99, 159-161
 - and Black vote, role of, 133-135
 - Justice, Department of, role in, 122-135
 - and Southern bloc, role of, 141
- Civil rights plank, Democratic platform of 1948, 184-186
- Civil Rights Section, Department of Justice, 142-143
- Clark, Tom C.: Attorney General, appointment as, 71-77
 - Attorney General, role as, 81-82, 93-94
 - background of, 55-56
 - and Busch, Adolph, 73-74
 - Cabinet meetings, role in, 82-83
 - and Clifford, Clark, 77-78, 79, 91, 93
 - and "Communist scare," 193-195
 - congressional investigation of, 222-223
 - and "Court-packing" plan, 37-40
 - and Democratic National Convention of 1944, 18-28, 155-156
 - Department of Justice, appointment to, 37
 - on election day, 1948, 203-205
 - and Hannegan, Robert, 72-73, 75
 - and Harriman, W. Averell, 150, 151
 - and Hoover, J. Edgar, 107-119, 121, 124
 - Japanese-American relocation, role in, 57-70
 - judicial philosophy of, 212-218
 - and loyalty program, 99-113
 - and Presidential campaign of 1944, 31
 - Presidential campaign of 1948, role in, 197-198
 - and Presidential inauguration in 1945, 35-36
 - and racial issue, 145-149
 - railway strike of 1946, role in, 94-96
 - and Roosevelt, Franklin D., 32-36
 - and steel strike of 1952, 218-221
 - Truman, Harry S.:
 - first meeting with Tom C. Clark, 1-3
 - on judicial appointments, 43-44
 - reaction of Tom C. Clark to ascension of Truman to Presidency, 41
 - U.S. Supreme Court, appointment to, 206-209
- ..

and War Fraud Section, Department of Justice, 2, 3, 4, 7-12
White House, lunches at, 91-92
Coal strike, 93
Communist party leaders, indictment of, 186, 189-190
"Communist scare," 193-195
 Also see Hiss-Chambers case.
Connally, Senator Tom, 75-76, 209
Counsel to the President, role of, 78

Democratic National Convention of 1944, 18-29
Douglas, William O., 182-184

Eisenhower, Dwight D., and Presidential campaign of 1948, 166, 180

Federal Bureau of Investigation, and investigation files, 113-115, 118-119, 121
Federal judgeships, appointments to, 43-44
Ferguson, Senator Homer, 116-117 and Clark, Tom C., 209-212
Fulton, Hugh, 5-6

Groves, General Leslie R., 15

Hannegan, Robert E., 19, 20-21, 72-73, 75
Hiss-Chambers case, 187-189, 190-193
Hoover, J. Edgar:
 and civil rights cases, 124
 and Clark, Tom C., 107-119, 121, 124
Hughes, Chief Justice Charles E., 54, 55

Jackson, Justice Robert H., 52-53
Japanese-Americans, relocation of, 56-70
Jefferson-Jackson Day Dinner in 1948, 159-161
Johnson, Louis, 169-170
Johnson, Lyndon B., 32, 209
 and campaign of 1948, 197, 202
 and personality of, 156-158

Kansas City vote fraud case, 112-119

Los Angeles, California, air-raid panic, 61-62
Loyalty program, 99-113

McGrath, J. Howard, 77, 195
 Attorney General, appointment to, 207
McInerney, James M., 108
Minton, Sherman, 50-51

Nixon, Congressman Richard M., 187, 189, 191

Patterson, Robert P., appointment to Supreme Court considered, 44-46

Pawley, William D., 173-174

Presidential campaign of 1948:

- and civil rights, 162-164

- fund raising, 168-174

- planning for, 162-166

- Southern vote, 199-203

Railway strike, 94-96

Rayburn, Senator Sam, 75

- and Democratic National Convention of 1944, 19-22, 155-156

Rogers, William, 114

Roosevelt, Franklin D.:

- and "court-packing" plan, 37-40

- and Democratic National Convention of 1944, 26-27

Rosenman, Samuel, 80-81

Royall, Kenneth, 166-167

Snyder, John W., 150-151

Steel strike of 1952, and role of U.S. Supreme Court, 216-217, 218-220

Texas, election of 1948, role in, 200-203

Truman, Harry S.:

- and Baylor University degree, 196-197

- and Barkley, Alben, 87

- and birthday prank, 91-92

- Cabinet, role of, 149-152

- Cabinet members, liberal and conservative, 149-152

- and civil rights, 97-99, 135, 140

- and civil rights award in 1972, 227-228

- and civil rights message in 1948, 159-161

- Clark, Tom C.:

 - appoints as Attorney General, 71-77

 - final conversation with, 88-89

- as decision-maker, 42-43, 152-153

- and Democratic National Convention of 1944, 19, 22, 25, 28, 30, 155-156

- estimation of, by Tom C. Clark, 42-43, 224-228, 229

- as a liberal, 144, 150 as a poker-player, 136-137, 138-139, 140

- and Presidential campaign of 1944, 29-31

- and Presidential campaign of 1948, in Texas, 197-198

- and railway strike of 1946, 95-96

- and Stalin, Joseph, at Potsdam, 17-18

- and Truman Committee, 5-6, 10-13, 14, 16-17

- and U.S. Supreme Court:

appoints Harold H. Burton to, 44-48
appointment of Justices to, 49-55
and Vinson, Fred, 49-50, 52, 54-55
Truman Committee [Senate Special Committee to Investigate the National
Defense Program], 1-6, 10-14, 16-17
and the Anaconda Company case, 7-9
and atomic bomb plant, 15

U.S. Supreme Court:
"Court packing" plan, 37-40
judicial philosophy of, 212-218

Vanech, A. Devitt, 106, 108
Vinson, Fred, 49-50, 52, 54-55, 137, 138

Wallace, Henry A., and Democratic National Convention of 1944, 22-23, 26
War Fraud Section, Department of Justice, 2-4
Washington, George (Assistant Solicitor General), 95, 96
White, Henry Dexter, case, 222-223
Williamsburg yacht, 137