

**87th Congress }
2d Session }**

COMMITTEE PRINT

STATE DEPARTMENT SECURITY

THE CASE OF WILLIAM WIELAND

THE NEW PASSPORT REGULATIONS

THE OFFICE OF SECURITY

R E P O R T

OF THE

**SUBCOMMITTEE TO INVESTIGATE THE
ADMINISTRATION OF THE INTERNAL SECURITY
ACT AND OTHER INTERNAL SECURITY LAWS**

OF THE

**COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE**



Printed for the use of the Committee on the Judiciary

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OCTOBER 1, 1962.

RESOLUTION

Resolved by the Internal Security Subcommittee of the Senate Committee on the Judiciary, That the attached report on "State Department Security" is hereby authorized to be reported favorably to the full committee, to be printed and made public.

JAMES O. EASTLAND, *Chairman*.
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ROMAN L. HRUSKA.
EVERETT McKINLEY DIRKSEN.
KENNETH B. KEATING.
HUGH SCOTT.

Dated October 4, 1962.

ADDITIONAL STATEMENTS OF SENATORS

SENATOR THOMAS J. DODD
SENATOR ROMAN L. HRUSKA
SENATOR KENNETH B. KEATING

FOREWORD

This report covers material from several different series of hearings held by the subcommittee during 1961 and the first half of 1962.

During 1961 the committee held extensive hearings under the general subject "Communist Threat to the United States Through the Caribbean."

Some of the areas covered in this report are documented from these hearings. (But this is not primarily a report on the threat to the United States through the Caribbean.)

Security procedures in the State Department have been the subject of a number of hearings by the subcommittee, some of them under the general editorial head of "State Department Security." The material covered in these hearings has been considered in the preparation of this report.

A separate series of hearings was held between May 16 and June 7, 1962, with respect to the State Department's new passport regulations, and operations under these regulations.

Other hearings of the subcommittee also have been considered in connection with the preparation of this report, and readers will find a few references to some of the subcommittee's earlier hearings.

The report is adequately footnoted to the record and quotes extensively from the record so that the evidentiary basis for any factual statement made here can be readily checked.

Because the subcommittee believes any Member of the Senate should be in a position to check the subcommittee's conclusions for himself, testimony on which this report is based and which has not already been made public is being released along with this report.

In accordance with the subcommittee's usual custom, where testimony taken in executive session is being released, the entire testimony of the witness is printed in full, except for a few instances where deletions had to be made for security reasons (or because, as in one instance, particular testimony was indecent and pornographic). Wherever a deletion has been made, the printed record shows this fact.

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STATE DEPARTMENT SECURITY

TESTIMONY OF SCOTT McLEOD

The subcommittee was privileged to hear the testimony of the late Scott McLeod, who was the first Administrator of the Bureau of Security and Consular Affairs of the Department of State and held that office until May 1957. Mr. McLeod's untimely death on Nov. 7, 1961, only a few months subsequent to his appearance before this committee marked the departure of a loyal, capable, and dedicated public servant. His observations and comments merit the most careful and deliberate consideration. His testimony clearly points to the thoroughness of his understanding and grasp of the problems of security and administration:

Selected excerpts from his testimony are quoted below. Others are cited in the text.

The first thing I undertook to do was to reorganize the Office of Security, which was, I think it is fair to say, chaotic. For example, we found there were more files outside the file room than there were inside the file room, and in many cases of employees that had been on the rolls for years, there was no security file whatever.

* * *

It was my idea that security should be a continuing process; that every time a man was promoted or transferred, the Security Office should bring his file up to date and should assure themselves that he still met the requirement of the order; so that we had pending during the 4 years I was there a great number of files, many more than 75.

* * *

I found out that when we did have files on individuals down there, there was no way of knowing who had made a decision either that they were a good or a bad security risk; in other words, who made a decision to keep them or who had made decision to fire them.

* * *

From my FBI experience, I know or knew that you could go on indefinitely investigating someone, but you had to make a decision when you had done enough on which to base a judgment.

* * *

Mr. SOURWINE. Do you, Mr. McLeod, have any recommendations for solving or helping to solve the security problem in our State Department?

Mr. McLEOD. I do not think that the problem is entirely security. I go back to the beginning. Security is a part of the personnel apparatus, and I think the weakness in the Department is the personnel operation. I think there have been too many changes in policy over the years. There had not been a consistent administration of the personnel.

* * *

* * * It is an outstanding job that the Congress has done to try and give emoluments and benefits to these people that will encourage the best people to get into the Foreign Service, and, in my judgment, the Foreign Service of the United States should be the most elite organization that we have.

* * *

There should be strict and stringent tests all along the line; first to qualify for the Service; a very hardheaded training period; not perhaps like our service academies, but certainly something to indoctrinate these people not only with what we hope would become the traditions of the Service, but also the traditions of our country; and then a very strict, tough discipline to make sure that malfunctions and mistakes and wrong decisions and so on are not condoned; that a person who demonstrates that he does not have good judgment is not promoted, but is either put in a place where he cannot hurt you, or else dismissed from the Service.

* * *

Mr. SOURWINE. The Foreign Service is supposed to have certain educational standards as a prerequisite to to appointment; is it not?

Mr. McLEOD. I think so. I am sure that is true, but I simply submit that the fact that you can pass a written and oral examination is no measure of your judgment. I do not believe there have been any tests devised yet to determine whether or not you are prepared to make tough decisions.

William Wieland—Example

Mr. William Wieland plays a large part in this report.

The case of William Wieland, like the majority of security cases, does not involve loyalty. It involves such factors as integrity and general suitability.

Mr. Wieland should be viewed (perhaps not primarily, but certainly most importantly) as an example: his record and conduct and the handling of his security case combine to provide a case history which illustrates much of what is wrong with the State Department from a security standpoint.

Mr. Wieland was not "responsible" for the Communists' Cuban takeover in the sense that he alone brought it about. Neither can he escape a share of the responsibility.

(The exact placement of blame for such faults or offenses as policy impedance, inadequate or incorrect intelligence, withholding of intelligence or information from higher echelons, misinformation of superiors, sabotage of policy papers, misuse or overstepping of authority, unauthorized affixation of the Secretary's name to documents or messages, and various other wrongful actions or failures to act, which can interfere not only with the effectiveness but with the basic security of the Department's operations, can never be established with certitude so long as executive privilege is asserted to prevent successful inquiry respecting individual actions.

(When the head of an agency or one of its units accepts the blame for an error made in the name of the unit, instead of seeking to escape personal blame by blaming an employee, this may be a noble action. But when such a man cries: "Whatever happens in my unit is my responsibility," for the purpose of preventing any investigation of what any of his subordinates did at any time, he is not accepting blame; he is simply hiding wrongdoing. For instance, if the same policy should be followed uniformly to the top, the President of the United States would have to be held personally responsible for every security leak in Government—which is patently absurd.)

William Wieland is, then, to be considered, most importantly, as an example.

He is by no means to be regarded as a typical example either of a Foreign Service officer or of a State Department employee.

Mr. Wieland was appointed to a position at the State Department for which his qualifications were highly doubtful. (His starting salary was \$7,000; ¹ his salary in private employment at the time was \$3,120.)²

¹ State Department Security Hearings, pt. 5, p. 502.

² State Department Security Hearings, pt. 5, p. 526.

He was appointed without any security check.

(His appointment actually was effective before he even filled out any form of an application.)³

He falsified his job application by omission.

When he later filled out an expanded personal history form, he falsified that by direct misstatement.

Mr. Wieland had a hand in shaping our policy with respect to Cuba both before and after Castro's takeover.

He held a position which by definition made him one of the State Department's experts in Latin American affairs, and Cuban affairs particularly. One of the things the Department paid him for was his expertise—his own judgment based on his own experience. Yet he never told his superiors officially or wrote in any Department paper, down to the very day when Fidel Castro stood before the world as a self-proclaimed Marxist, what he told friends privately as early as 1958—or earlier—that Castro "is a Communist"⁴ and "is surrounded by Commies (and) * * * subject to Communist influences."^{4a}

To Mr. Wieland's desk came, over a period of years, great quantities of solid intelligence respecting the Communist nature and connections of the Castro movement, of Castro himself and his principal lieutenants. The committee was unable to document a single instance in which Mr. Wieland passed any of this material up to his superiors or mentioned it as credible in any report or policy paper.

Mr. Wieland became an active apologist for Fidel Castro, even to the extent of openly contradicting intelligence officers who were attempting to brief Dr. Milton Eisenhower (then on an official trip to Mexico representing his brother, the President)⁵ respecting communism in the Castro regime.

Mr. Wieland eventually became the subject of a full-scale security investigation. He was "cleared" improperly (in the name of the Secretary) by an official who made no concurrent written record of either the clearance or the reasons therefor, and who at the time of the clearance had not read either the security file on Wieland, or even the official summary and evaluation of that file.⁶ (Or else State Department records were arranged after Mr. Wieland had been mentioned at a Presidential press conference, so as to show that he had been cleared several months before. There is substantial evidence that this may have been the case.)

³ State Department Security Hearings, pt. 5, p. 502.

⁴ Ibid., pt. 1, p. 76.

^{4a} Ibid., pt. 1, p. 3.

⁵ "Communist Threat to the United States Through the Caribbean," pt. 12, pp. 705, 807; State Department Security Hearings, pt. 1, pp. 9-20.

⁶ The most he could have read was a digest of the summary.

IRREGULARITIES IN SECURITY CLEARANCES

The State Department's personnel security regulations describe the Department's operations as very sensitive in terms of the national security. They detail procedures that must be observed at all times to maintain the maximum security of the Department's personnel and operation. The regulations prescribe a full field preappointment investigation of every person to be appointed to a sensitive position.⁷ However, as an exception a sensitive position may be filled by a person regarding whom a full field investigation has not been made. This may be done only in case of an emergency and if the Secretary of State personally approves the waiver of the investigation. It is further provided, in case the waiver is approved, that the full field investigation must be completed within 90 days after the appointment of the individual. The regulations, therefore, clearly imply a specific security clearance in any event before a sensitive position is filled whether it is by preappointment investigation or by a waiver.

Prudent use of the waiver authority would not be properly subject to criticism. The subcommittee recognizes that vital operations of the Department should progress without delay. Evidence in our record makes it clear, however, that some offices in the Department, apparently without the Secretary having full personal knowledge of the merits of each case, have resorted to the indiscriminate use of the waiver provisions. In many instances employees were known to be working in sensitive areas and had access to classified defense information before they had any specific security clearance from responsible persons in the Department.

In considering requests for a waiver the first step is for the Office of Security to make a preliminary check on the individual, the results of which are evaluated to weigh the element of risk involved in the emergency clearance. Next the Office of Security prepares staff papers for the signature of the Secretary which are routed through and must bear the recommendation of the Director, Office of Security (until recently the Administrator, Bureau of Security and Consular Affairs) and the Deputy Under Secretary for Administration.⁸

The subcommittee first questioned Roger W. Jones, Deputy Under Secretary for Administration, and William O. Boswell, Director, Office of Security, about their knowledge of irregularities in this process. Both originally stated they knew of no instance where a waiver may have been signed by the Secretary after the person was appointed and the security clearance required under the regulations was then antedated to coincide with the date the person entered on duty. On March 20, 1962, Mr. Jones notified the committee that instances of backdating waivers had been brought to his attention

⁷ See departmental regulations, State Department Security Hearings, pt. 4, pp. 404-416.

⁸ By Executive order of Aug. 8, 1962, the Office of Security was transferred out of the Bureau of Security and Consular Affairs and now reports directly to a Deputy Under Secretary for Administration.

on March 17, that he had directed the Inspector General to make a thorough investigation of the entire subject and would make known to the committee the results of the investigation. Subsequently, the Department provided the subcommittee with a list of persons appointed by waivers with the explanation that the Department had found that a total of 152 waivers had been granted since January 1961. Of this total 44 (more than 25 percent) had been backdated.

The Department stated that backdating of waivers arose from five factors:

(a) The pressure of work at the start of a new administration when many new appointments, particularly of consultants, were needed.

(b) Unfamiliarity of new policy officers with security and appointment procedures and the desire of lower echelons to help new officers, and not to appear to impede them by rigid insistence on established administrative procedures.

(c) Uncertainty as to the degree to which prior clearances could properly be substituted for new investigations.

(d) Failure to record dates of telephonic clearances obtained in priority handling of certain cases under the emergency procedures for making national agency checks, and delay in paper-work after such clearances were obtained.

(e) Assumption that the absence of any adverse finding justified dating waiver papers as of the date of entrance on duty where such date was earlier than preparation of the waiver.⁹

REDUCTION OF SECURITY PERSONNEL

On October 13, 1961, the Department of State announced to its employees that it planned to eliminate and curtail some desirable but unessential operations and activities which could require the abolition of many positions in the Department.

On October 31, 1961, the Assistant Secretary for Administration, William J. Crockett, a Foreign Service officer, class 1, instructed the executive directors of each of the Department's regional bureaus and offices to identify the positions within their respective bureaus and offices which should be cut. In his instructions Crockett specifically asked that each bureau and office "simplify organization, eliminate unnecessary layers, eliminate duplication between regional bureaus and functional offices, streamline procedures, and eliminate low priority work." While Crockett included among the positions to be cut those occupied by Foreign Service officers together with those filled by persons under the Federal civil service, Crockett made no mention in his directive of the retention in the Department of the displaced civil service employees. Regarding Foreign Service officers, Crockett stated: "Foreign Service officers in abolished positions will not be moved from their present positions until new assignments have been worked out." He also reminded the bureaus and offices that if they cut the wrong activities "they will have to live with the consequences."

The Department's monthly News Letter carried an explanation of the reduction in force in its November 1961 issue. It stated that Secretary Dean Rusk and Under Secretaries Chester Bowles and

⁹ Letter of Apr. 30, 1962, to Senator Eastland from Roger W. Jones (comment on p. 26).

George Ball had relayed the budgetary situation, and the justification for the cuts to top officers at a meeting held on October 26, 1961.¹⁰ The job of implementing the "belt-tightening" plans was given to Crockett and Roger W. Jones, then Deputy Under Secretary for Administration, who, in turn, conveyed instructions to the lower echelon functional offices. A chart printed in the News Letter listed the funded positions affected by the cut as 254 supported by mutual security appropriations (foreign aid programs), plus 233 supported by other appropriations by Congress.¹¹ The News Letter said that Foreign Service officers whose positions would be affected would be reassigned to other positions under the Department while other categories of separated personnel would be assisted by the Office of Personnel in finding jobs in other agencies.

One of the bureaus materially affected by the personnel reductions was the Bureau of Security and Consular Affairs. This Bureau had six major subdivisions: (1) Office of Security, (2) Passport Office, (3) Office of Munitions Controls, (4) Office of Special Consular Services, (5) Visa Office, and (6) Office of Refugee and Migration Affairs, each office headed by a director and each having a deputy director as second in command. It is interesting to look at the personnel organization of the Bureau of Security and Consular Affairs. The Bureau itself was headed by Salvatore A. Bontempo (full title "Administrator, Bureau of Security and Consular Affairs"), a controversial New Jersey political figure who had had no pertinent prior experience relating to the functions of either of the six offices, and the least experience with respect to matters handled by the Office of Security. Bontempo's top assistant, Michel Cieplinski, although suited by ability and by his experience as an anti-Communist Polish editor, was also a new appointee, without experience in bureau functions. The second principal assistant, Harris Huston, an experienced security administrator with a background as an FBI agent, who had served as Deputy Administrator under three previous Administrators of the Bureau of Security and Consular Affairs, had been allowed little voice in the Bureau's planning under Bontempo because Huston was awaiting transfer to an obscure consular post that did not involve any security administration.

Next to the Passport Office, the largest subdivision of the Bureau of Security and Consular Affairs was the Office of Security headed by William O. Boswell, Director. Second in command was Otto F. Otepka, the Deputy Director. Boswell, like his immediate predecessor in that job, was a class 1 Foreign Service officer. Neither Boswell nor his predecessor had had prior security experience. Otepka was a member of the career civil service system with 25 years of service, 19 of them as a security officer. In his 9 years in the State Department's Office of Security, Otepka had received only highly favorable annual performance ratings. He was also a recipient of a meritorious service award from the then Secretary of State Dulles for outstanding achievements in the administration of the Department's personnel security programs. Several months before the reduction in force Otepka had been given the job of personally evaluating the important case of William Wieland, a class 1 Foreign Service

¹⁰ State Department Security Hearings, pt. 2, p. 155.

¹¹ Ibid.

officer. (A discussion of the Wieland case appears in a separate portion of the subcommittee's report.)

Information furnished to the subcommittee indicates that from October 1961 until April 1962, when Boswell was to depart for an oversea post as a deputy chief of mission, plans for the reorganization of the Office of Security were carried out largely on the initiative of Boswell who dealt directly with Jones while bypassing his immediate superiors in the Bureau of Security and Consular Affairs. Boswell was allotted 25 positions of the approximately 500 positions in the Department that were to be abolished. The entire Bureau had three positions to be cut which were attributable to mutual security funds. In statements to his staff Boswell readily claimed the responsibility for identifying the specific positions to be abolished and for naming the incumbents of those positions who were to be affected as a consequence.

The developments in the Office of Security preceding the reduction in force bear close attention. Approximately 1 year before November 1961, Boswell, using his prerogative as the head of an office, directed Otepka to undertake and personally supervise a special mission which he described to Otepka as of the highest priority and utmost significance in the effective administration of personnel security in the State Department. Boswell defined to Otepka the purposes and estimated duration of the mission. Also, as mentioned heretofore, during the same time Otepka was diverted by Boswell to the evaluation of the Wieland case, again because this assignment was considered by Boswell to require Otepka's personal talents. There was a mutual understanding between Boswell and Otepka that when these undertakings were completed or when Otepka had trained others to supervise the day-to-day operations on these special projects, Otepka would resume his full-time activity as Deputy Director. Notwithstanding this obedience to his superior, in November 1961 Boswell notified Otepka that he, Boswell, had now decided that he did not need the position of Deputy Director but could operate more effectively by direct contact with the chiefs of each of the then three divisions in the Office of Security: the Division of Evaluations, Division of Investigations, and Division of Physical Security, all classified at the GS-15 level.

Further, during the same period preceding November 1961, Boswell had recruited from the Foreign Service one Murray Jackson, a class 4 Foreign Service officer, whom he located physically in his immediate offices, and whom he directed to function as the Executive Officer for the Office of Security. The position of Executive Officer for the Office of Security was nonexistent at the time, having been previously abolished through Boswell's own efforts after Boswell insisted he had no need for an Executive Officer. Boswell, however, had allowed Otepka no role in budget preparation, fiscal planning, and personnel management after he had previously decided he did not need that position. Instead Boswell reserved the direction of these functions to himself, while confining Otepka to the "special assignments" until Boswell could avail himself of Jackson's services.

One of Jackson's first assignments from Boswell in October 1961 (and despite the fact that Jackson was organizationally assigned as a security education officer in the Office of Security) was to assist

Boswell in planning the reduction in force. Jackson prepared for Boswell a list of the retention groupings of all officer personnel in the Office of Security. From the information on this list Boswell orally notified Otepka that he (Otepka) would displace Elmer Hipsley, GS-15, a thoroughly experienced security officer, as Chief of the Division of Physical Security while, in turn, Hipsley who had less retention credits would displace a GS-13 security officer in the Division of Evaluations. Boswell further told Otepka that later by a so-called administrative action (which contemplated the possibility that the then incumbent Chief of the Division of Evaluations, Emery J. Adams, GS-15, would voluntarily leave the Office of Security in the future), Otepka and Hipsley would be "switched", whereby Hipsley would reoccupy his original position as Chief, Division of Physical Security, and Otepka would be reassigned as Chief, Evaluations Division.

Obviously, in this process of displacement Boswell was willing to accept the alternate result: Adams might not relinquish his position and therefore Otepka and Hipsley would both be misassigned, a condition easily bringing about frustration to two veteran security officers who had earned their laurels by dedicated service to their chosen specialties.

The prospect of getting rid of Otepka and Hipsley by the above scheme is no specious conclusion, for one need only to examine the events that occurred in January 1962 under Boswell's direction. Disregarding the announced objectives of the reduction in force—that is, economy, a simplified organization, and the elimination of unnecessary layers—Boswell accomplished the following:

(1) He formally reestablished the position of executive officer in the Office of Security and had it classified at the GS-14 level. The new position was reserved only for a Foreign Service officer. Boswell's choice for that position was Murray Jackson, FSO-4, to whom he immediately turned over budgetary matters, fiscal planning and personnel management.

(2) He abolished the Division of Physical Security headed by Hipsley. What was one division became three separate divisions, each classified at the GS-15 level. Two of the new positions of Chief of Division were reserved only for Foreign Service officers. Both designees to these positions were Foreign Service officers, each personally chosen by Boswell.

(3) Elmer Hipsley was designated as Chief of a new Division of Domestic Security and stripped of nearly two-thirds of the authority and responsibilities he formerly had.

(4) Otto F. Otepka was reassigned to the position of Chief, Division of Evaluations.

Other plans which Boswell laid down in January 1962 were fulfilled by him in April 1962. During the latter month he transferred four personnel security officers (evaluators) and their positions and functions from the Division of Evaluations to the jurisdiction of the Executive Officer. In effect this placed several personnel security evaluation functions directly under the Executive Officer. If carefully scrutinized under classification procedures, this should prove to be not only a misassignment of personnel but an administratively unsound practice of duplicating functions between offices. Apparently Boswell had other motives for this move.

In sum, Boswell's plans, with the assistance of his new Executive Officer, were designed not to eliminate unessential operations but, as events seem to bear out, were directed at individuals so that Boswell could reorganize and entrench the entire security organization under Foreign Service control. He carried out his objectives almost unrestrained under a weak and confused Bureau of Security and Consular Affairs. Boswell and others in the Department were quick to defend cutbacks in the domestic operations of the Office of Security to the extent of 25 positions (almost all persons cut were veteran civil service employees) while increasing the number of security officer positions at posts abroad, all under the Foreign Service. The immediate administrative supervision over all the positions in foreign operations was placed in the hands of Foreign Service officers.

Boswell further sought to justify the domestic cuts on grounds of decreased workloads. The fact is that not only have workloads not decreased but all of the abolished domestic positions have been restored in order to enable the Department to handle increases in investigative caseloads. The unfortunate results of such poor planning, for which Boswell must bear a major share of responsibility, were the impairment of the morale and efficiency of the dedicated professional security officers in the Department who have chosen security administration as their careers. Although Boswell did not schedule clerical positions for reduction, many such employees left that office in disgust because of the disruptions caused by the shifts of personnel and functions due to the implementation of Boswell's reorganization policies and practices.

The reduction in force in the Office of Security was not followed by any drop in the workload, and personnel were detailed from the field to Washington to liquidate backlogs:

Mr. SOURWINE. Mr. Otepka, are you familiar with the reduction in force which you mentioned here a moment ago?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. Can you tell us anything about what savings have been effected as a result of that reduction in force?

Mr. OTEPKA. Well, I, of course, am not in a position of executive officer or director of SY, and I am not privy to such information relating to budgetary or fiscal matters. However, I have recently been informed that our staffing pattern as of this time is about the same as it was when the reduction in force was ordered.

Mr. SOURWINE. Has the workload dropped?

Mr. OTEPKA. It has not, sir.

Mr. SOURWINE. Have any personnel been assigned from the field to do work in the Security Division here in Washington?

Mr. OTEPKA. Yes, sir. During the months of December 1961, and also January 1962.

Mr. SOURWINE. How many people from the field, if you know?

Mr. OTEPKA. To the best of my knowledge, during December I believe there were about 10 persons brought in from the various field offices outside Washington to liquidate backlogs in the Washington field office. Subsequently, an additional six or more persons were brought in after the original detail returned.

Mr. SOURWINE. How many persons were cut out or dismissed as a result of the reduction in force in the Office of Security?

Mr. OTEPKA. The reduction in force order required the cutting of 25 positions in the Office of Security.

Mr. SOURWINE. Were those positions, in fact, cut?

Mr. OTEPKA. As I mentioned awhile ago, because of factors indicating that the workloads in fact were not going to diminish and have not diminished, there had been a considerable saving of most of the positions which were originally scheduled to be cut. Some persons, sir, if I may continue, some persons, however, as a

result of the reduction in force, availed themselves of the opportunity of the retirement laws and they have, in fact, lost their positions which they otherwise might have remained in had it not been for the reduction in force order.

Mr. SOURWINE. Is the total working staff of the Security Division at the present time larger or smaller than it was before the reduction in force, counting the persons who have been assigned from the field?

Mr. OTEPKA. I was told that it is equal to the staffing pattern which we had as of December 1, 1961, which at that time officially showed 278 funded positions in the Office of Security.¹²

At least some of the positions eliminated by the reduction in force have been requested for reinstatement or replacement:

Mr. SOURWINE. Are you knowledgeable with respect to whether there have been any requests for new positions to replace those which were supposed to have been cut as the result of the reduction in force?

Mr. OTEPKA. Yes. I am aware that some requests have been made to replace persons who have lost their positions as a result of the reduction in force.

Mr. SOURWINE. Do you know how many new positions have been requested?

Mr. OTEPKA. That, sir, I don't know.¹³

An increased workload in the United States has had to be handled without any substantial increase in personnel, but positions abroad have been increased considerably:

Mr. SOURWINE. What is the situation with regard to the field offices? Has the workload there increased or decreased?

Mr. OTEPKA. The workloads have, to the best of my knowledge, indicated increases in the number of investigations that had to be performed under the personnel security program.

Mr. SOURWINE. And has the staff in the field been increased?

Mr. OTEPKA. They have had to pick up this lag in some of our field offices through these various details that had to be made. I would say that the staff, the funded—the number of funded positions in our field office, Washington field office particularly, has not been increased.

Mr. SOURWINE. How about positions abroad. Have they been increased or decreased?

Mr. OTEPKA. There has been a considerable increase in the positions abroad.

Mr. SOURWINE. To meet an increased workload?

Mr. OTEPKA. To contend with situations that are prevalent abroad, requiring the services of technicians in the field of physical security.

Senator HRUSKA. Such as what?

Mr. OTEPKA. The Department of State has long been aware of the ability of foreign intelligence agencies to penetrate our missions abroad by various mechanical listening devices. And since December 1961, there have been increases in the number of people which were required to combat the effectiveness of the foreign intelligence service to penetrate.

Senator HRUSKA. Is that a one-shot deal, or will it mean constant surveillance?

Mr. OTEPKA. It will mean constant surveillance.¹⁴

The evaluation Division in the Office of Security—the key division in the whole personnel security operation—was cut by more than 20 percent:

Mr. SOURWINE. Mr. Otepka, what is the present size of the Evaluation Division of which you are functioning as Chief?

Mr. OTEPKA. I have 32 funded positions assigned to me, including myself.

Mr. SOURWINE. All filled?

Mr. OTEPKA. All the officer positions are filled. However, we have a continuing turnover in clerical personnel.

Mr. SOURWINE. Is this a larger number or a smaller number than the Evaluation Division had a year ago?

¹² State Department Security Hearings, pt. 2, pp. 189-190.

¹³ State Department Security Hearings, pt. 2, p. 190.

¹⁴ State Department Security Hearings, pt. 2, pp. 190-191.

Mr. OTEPKA. This is a smaller number, sir.

Mr. SOURWINE. By how much?

Mr. OTEPKA. Ten positions.

Mr. SOURWINE. Have you received any indication that the size of your organization in the Evaluation Division is to be increased or decreased in the near future?

Mr. OTEPKA. I have received an indication that it is not to be increased in the near future.

Mr. SOURWINE. Not to be.

Mr. OTEPKA. Not to be.

Mr. SOURWINE. Had you requested an increase?

Mr. OTEPKA. I very recently requested an increase of two officer positions and two clerical positions.

Mr. SOURWINE. Was this denied?

Mr. OTEPKA. I am told that because of the financial situation in the Department for this fiscal year and with the plans for the next fiscal year that I will not get those positions.¹⁵

It appears the Division of Evaluation was to be still further cut:

Mr. SOURWINE. Are you familiar, Mr. Otepka, with the order of April 6 with regard to a further reorganization of the division to take effect on April 11?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. Is this the order?

Mr. OTEPKA. That is the order, sir.

Mr. SOURWINE. Have you received a copy of this?

Mr. OTEPKA. Yes; I did.

* * * * *

Mr. SOURWINE. What does that do to your Division?

Mr. OTEPKA. This to me was a rather hasty and unnecessary implementation of an understanding that I had with the Director of the Office of Security and the executive officer of the Office of Security in January 1962, when I was given the special task of taking functional activities which were in other divisions; that is, divisions other than the Evaluation Division in the Office of Security, and including one section which was in my division, taking these and molding these into a single component in order to improve their operating efficiency and effectiveness. There were a lot of cross-exchanges of paperwork and functions between divisions which rendered a lot of unnecessary work.

Now, my understanding was that in the near future, after a reasonable trial period with this new function, that we would then sit down and determine whether or not this operation should or should not be retained in the Division of Evaluations. I was not given the opportunity to sit down and talk this thing over, and I was rather taken aback quite by surprise by this memorandum which in its literal context meant to me that I would lose something like seven officer or evaluator positions which had always belonged to the Evaluation Division, that these positions would instead come under the jurisdiction of the executive officer.

Mr. SOURWINE. I just asked you a little while ago if you had any knowledge of any pending reduction in your force, and I understood you to say no.

Mr. OTEPKA. I am fully aware of that, sir. I should have qualified my answer in this manner I am qualifying it now because, and if I may continue further—

Mr. SOURWINE. Go ahead.

Mr. OTEPKA. As I said, this was a rather hasty move and since this order was issued, I have had a series of discussions with the Director of the Office of Security and the executive officer, and I hope we can reach some sort of an understanding that I will not lose from my division any of these professional personnel security officers. Those jobs properly belong in my Division.

* * * * *

Mr. SOURWINE. Now, if this move is made and you say it is now underway, what will be the result on the efficiency of your Division?

Mr. OTEPKA. My feeling is that the executive office will be performing functions in the field of personnel security that is evaluation of substantive data on officers or, rather, on employees of the Department of State, applicants for the

¹⁵ State Department Security Hearings, pt. 2, p. 191.

Department of State as well as other individuals who will have some official relationship with the Department of State where they may need to have access to the Department's classified information or perform duties of a sensitive nature.

Mr. SOURWINE. Are you telling us that the result of this order will be to place the responsibility for certain evaluations outside the Division of Evaluations?

Mr. OTEPKA. I am telling you that.

Mr. SOURWINE. Does that make sense?

Mr. OTEPKA. It does not make any sense to me, sir.¹⁶

Otepka to War College

In a move directed from the top echelon, Mr. Otto Otepka, Chief of the Division of Evaluation of the State Department's Office of Security, was given a 10-month assignment to the National War College soon after he had testified before us.

Senator Mundt had addressed a letter to Mr. Jones on this subject. In this letter, Senator Mundt wrote:

* * * I have just learned that Otto Otepka is currently being slated for a 10-month assignment at the National War College. While I feel that it is vitally important that top-level personnel in our national security agencies undergo broad-spectrum training in all phases of the cold war, I am, nevertheless, disturbed to learn the Mr. Otepka is being taken away from his important responsibilities at the very time that a new man is "breaking in" to the job of Director of the Office of Security. In the recent aftermath of the Scarbeck case it seems to me that we can ill afford to take a veteran security officer like Mr. Otepka off the firing line. Because of the critical role which Mr. Otepka plays in the security program at State, I sincerely hope that you will make a personal review of his proposed assignment to the War College. His transfer at this particular time does not look wise to me, and I trust that you will agree with this view once you've had a chance to study this matter.

Mr. Jones' testimony about this on April 12 follows:

Mr. SOURWINE. Is it true, Mr. Jones, that Mr. Otepka was assigned to the National War College?

Mr. JONES. He was assigned to it up to the day before yesterday and he accepted the assignment by letter to the personnel office. The day before yesterday, in the afternoon, the personnel office told me—after I received Senator Mundt's letter—that Mr. Otepka had been in and requested his assignment be canceled, and it was forthwith canceled because we don't send people to senior training against their wishes.

Mr. SOURWINE. Why was he assigned to the National War College can you tell us?

Mr. JONES. Yes. Three considerations were involved. Mr. Otepka has carried a terrific workload, trying to tidy up all the outstanding cases, as the committee knows, for a very considerable period of time. He has worked under great stress. He has worked against impossible deadlines at times, particularly in connection with appointments at the start of the new administration.

He seemed to his prior supervisor, Mr. Boswell, and his present supervisor, Mr. Reilly, to be a tired and worried man on whom responsibility had closed in to the point where he needed a break.

It was our belief that it would be highly useful for a man of Mr. Otepka's demonstrated value in the security field to have the opportunity to undertake senior training at the National War College, so as to have a chance to recharge his battery, to get a new overview of our entire strategic situation, to have an opportunity for time to reflect and to study and to map out for himself the course of his future career.

Mr. SOURWINE. The purpose was primarily to give him a break and a rest?

Mr. JONES. Primarily to give him a break and a rest from duties which were confining and where he was under very heavy pressure.

Mr. SOURWINE. What is the normal procedure; how are candidates selected for the National War College?

¹⁶ State Department Security Hearings, pt. 2, pp. 192-195.

Mr. JONES. They are selected in two ways. First, nominations are received from the individual bureaus—well, may I say, one way is for the nomination to be made by the bureau or the departments and the second is for the personnel office in consultation with the Department officers to select a top group for each one of the institutions like the National War College, or like our own Foreign Service Institute and the seminar under Professor Bowie at Harvard. They come up with suggested names both of principals and alternates and then the availabilities of the principals and alternates is checked with the bureaus and interviews are held with the man if he is in this country, and, if not, by letter, if he would like to have this training, and then the assignments are made by the personnel office.

Mr. SOURWINE. How many State Department employees are sent to the War College annually?

Mr. JONES. We send 18 at the present time.

Mr. SOURWINE. I have here, Mr. Chairman, a copy of a memorandum to Mr. Leahy from Mr. Pollack which Mr. Leahy furnished us. Do you have a copy of this?

Mr. JONES. I think this is the same, sir; yes. And may I ask, Mr. Counsel, to insert one word here to make it clear? It reads now, "the Department of State assigns officers to advanced career training at the following institutions," and the word "now" really goes in before "assigns officers" because in the next paragraph he refers to "in the past, when the Department sent about half the present number of officers."

Mr. SOURWINE. May that go in the record, Mr. Chairman?

Senator HRUSKA. It may go in the record with that notation as a correction. (The document referred to reads as follows:)

DEPARTMENT OF STATE,
ASSISTANT SECRETARY,
May 31, 1962.

Memorandum for: H—Mr. Leahy.

Reference is made to your inquiry from the Senate Internal Security Subcommittee.

The Department of State [now] assigns officers to advanced career training at the following institutions: 18 to the National War College, 15 to the senior seminar at FSI, 3 to the Industrial College of the Armed Forces, 16 to the following schools: Army War College, Air War College, Naval War College, the Armed Forces Staff College, the Imperial Defense College, the Canadian Defence College, and Harvard University.

In the past, when the Department sent about half the present number of officers to training, 30 to 40 percent were civil service officers. Since 1957, after many civil service officers had been integrated into the Foreign Service, substantially fewer civil service officers have been trained. In 1959, 1960, and 1961, two civil service officers have been sent to advanced training annually.

It has been determined that it would be desirable to increase the number of civil service employees receiving such training. Therefore, our target for the coming academic year was set at five civil service officers. To date we have been able to obtain agreement on the assignment of four.

I hope this information will be helpful.

HERMAN POLLACK.

Mr. SOURWINE. Is it true, Mr. Jones, that you instructed that Mr. Otepka be designated for assignment to the War College?

Mr. JONES. No, sir.

Mr. SOURWINE. Was he recommended for this assignment by his immediate superior?

Mr. JONES. This possibility was discussed by his then immediate supervisor, Mr. Boswell and me, and was also discussed by me with the chief of the Personnel Division. Subsequently after Mr. Reilly succeeded Mr. Boswell and Mr. Boswell went to the hospital for surgery, I discussed—

Mr. SOURWINE. It was not initiated by Mr. Boswell, though, was it?

Mr. JONES. The specific assignment was not initiated by him.

Mr. SOURWINE. The question of sending him to the War College was not initiated by him?

Mr. JONES. No; the question of what we could do to get him out from under stress was.

Mr. SOURWINE. What you could do to get him out from under stress. What future do you foresee for Mr. Otepka in the State Department, Mr. Jones?

Mr. JONES. Mr. Otepka is a very valuable security officer in the field of personnel security—

Mr. SOURWINE. Do you think it would be good administration to take him out of the field of security in which he spent his lifetime?

Mr. JONES. Well, may I go on and answer your question a little more?

Mr. SOURWINE. Of course.

Mr. JONES. I have had a lot of experience with security personnel over a very long period of time and I have been particularly concerned, growing out of my experience in the Civil Service Commission, that good personnel security officers not be permitted to get stale.

This is a very, very difficult kind of a job, Mr. Chairman, because on their shoulders rests the responsibility for seeing to it that just so far as they can prevent it their bosses do not ever make a mistake of judgment. This requires them to have a very high order of themselves and when they are constantly dealing with files in which there are all kinds of information, from good, to bad, to indifferent, it is only natural to begin to turn in on themselves and begin worrying about their own competency, after a certain length of time, their own capacity to be judges.

In the Civil Service Commission we had a program for the promotion of the best evaluators to administrative responsibilities in connection with the operation of the whole Government-wide system of personnel investigations, and in fact at times we deliberately yanked them out of that kind of work and put them into other work, assigning them work on review of criteria used in agencies for the application of the civil service laws and things of that sort.

In the State Department we don't have that breadth or latitude for people primarily trained in security matters. I had felt for some time that one of Mr. Otepka's difficulties or problems was that he had not had enough of an overview of the entire job of the Department of State to make it possible to recognize and to utilize his full potential. He has been pretty well locked to the job in which he had topped out and he was too young a man to have topped out. When Mr. Boswell and I reviewed all of the cases of security people on his staff, there were several people who were marked by us for potential advancement, but we thought their potentials had to be raised, their vistas broadened, and Mr. Otepka was one of these.

He had had a long time as chief of evaluation work and we wanted to find other fields in which he might be interested.

Mr. SOURWINE. How about my question? Do you think it would be good administration to take him out of the field of security which had been his lifetime profession?

Mr. JONES. If the job had closed in on him, I do, sir.

Mr. SOURWINE. Is that what you contemplate, getting him out of that field?

Mr. JONES. No, what we contemplated was to give him an opportunity to reassess this thing after a year of being completely divorced from it.

Mr. Otepka, in his conversations with Mr. Boswell, and one conversation with me, expressed some doubt what he really wanted to do from here on out. He had made a contribution and we agreed that he had, but he was not sure he wanted to stay in that work for the rest of his career.

Mr. SOURWINE. In the security field, what jobs higher than the one that he holds might be open?

Mr. JONES. Only the job of Chief of Security, unless he switched into another field and went into the field of physical security, which I don't think he considers himself qualified to do.

Mr. SOURWINE. He could be switched to that—

Mr. JONES. That is the only—

Mr. SOURWINE. If it were reestablished?

Mr. JONES. If the job should be reestablished.

Mr. SOURWINE. Or he could be, I suppose, assistant administrator of the Bureau of Security and Consular Affairs or Administrative Affairs—I am not saying he is fit for this job or that you would put him there, but it is in line with security work—or is it not?

Mr. JONES. No, those jobs are primarily administrative jobs and Mr. Otepka, if he is going to undertake that kind of thing, needs to get some of the background of administration, in my judgment.

Mr. SOURWINE. You don't consider him an able administrator?

Mr. JONES. I will have to answer that categorically; no, I don't think he is at the present time; no.

Mr. SOURWINE. Would the job that you say is the only one possibility ahead of him require National War College training?

Mr. JONES. It would be highly desirable, but it doesn't require it.

Mr. SOURWINE. How would National War College training help fit him better for the job of chief of security?

Mr. JONES. To give him a broad overview of our national strategy, of our relationship to many questions that affect a neat balance between the political and the substantive on issues affecting the bloc and in giving him an opportunity to read and to get up to date on the current thinking of Government and outside leaders about the nature of our contest with communism and the place of the State Department and the overall national security picture of the country, give him an opportunity to work on a specific project and to travel.

Mr. SOURWINE. And you think the National War College would teach Otepka anything about communism that he does not already know?

Mr. JONES. Yes, I do, sir.¹⁷

Mr. Otepka refuted aspersions cast on his record by Deputy Under Secretary Roger Jones. Counsel asked:

Mr. Otepka, in testifying before the House committee, Mr. Roger Jones, when asked by Representative Walter about Mr. Boswell's assistant, said this:

"He (meaning Boswell) doesn't have an operating deputy. On the organization chart for the last couple of years his operating deputy has been Mr. Otepka, but his job as deputy has not been that of full deputy. He has continued to devote practically 100 percent of his time to the Division of Evaluations, and consequently, in blunt terms, I considered the job was a phony and we abolished it."

Now, Mr. Otepka, how long were you in the job of deputy?

Mr. OTEPKA. From April 1957 through January 20, 1962.

* * * * *

Mr. SOURWINE. Had you always devoted practically 100 percent of your time to the Division of Evaluations?

Mr. OTEPKA. During that period of time?

Mr. SOURWINE. Yes.

Mr. OTEPKA. No, sir.

Mr. SOURWINE. Did you ever devote practically 100 percent of your time to the Division of Evaluations while you were Deputy Director?

Mr. OTEPKA. Never, sir, I—

Mr. SOURWINE. Have your efficiency reports always been high?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. Does your job description call for you to devote most of your time to the Division of Evaluations?

Mr. OTEPKA. No, sir.

* * * * *

Mr. SOURWINE. In your judgment, is that a fair job description?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. It recites what your duties in fact were?

Mr. OTEPKA. Yes, sir. As Deputy Director; yes, sir.

Mr. SOURWINE. And you did perform those duties?

Mr. OTEPKA. I performed substantially all of those duties enumerated in that job description. There may be some difference of opinion on percentage of time because of special assignments.

Mr. SOURWINE. Is that a phony job description?

Mr. OTEPKA. No, sir.

* * * * *

¹⁷ State Department Security Hearings, pt. 2, pp. 222-226.

Mr. SOURWINE. Under that job description which you are going to supply for the record, if you had spent practically 100 percent of your time devoting it to the Division of Evaluations, would you have been satisfactorily performing your duties?¹⁸

Mr. OTEPKA. Would you restate the question, Mr. Sourwine?

Mr. SOURWINE. Yes. If during the time you were Deputy Director under the job description you have just agreed to furnish you had spent practically 100 percent of your time handling the Division of Evaluations, would you have been satisfactorily performing your duties as Deputy Director?

Mr. OTEPKA. No; I would not have.

Mr. SOURWINE. Did you in fact willfully and of your own volition devote practically 100 percent of your time to the Division of Evaluations in disregard of the requirements of your job description?

Mr. OTEPKA. No, sir; I did not.

Mr. SOURWINE. Did any of your superiors at any time tell you you were not performing your job satisfactorily.

Mr. OTEPKA. They did not, sir.

Mr. SOURWINE. How did it come that you took on a heavy additional responsibility in connection with the work of the Division of Evaluations? Were you ordered to do this?

Mr. OTEPKA. I was never aware that, made aware by any of my superiors that I was taking on any additional duties relating specifically to the Division of Evaluations. I undertook to perform special functions and missions in connection with my capacity as Deputy Director.

Mr. SOURWINE. When you took on additional work, was it because you were ordered or asked by your superior to do this?

Mr. OTEPKA. I was specifically requested by my superior.

Mr. SOURWINE. That was Mr. Hanes or Mr. Boswell?

Mr. OTEPKA. Initially Mr. Hanes and next Mr. Boswell.

Mr. SOURWINE. Was any reason given for picking you for this job?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. What was the reason?

Mr. OTEPKA. Well, I don't want to flatter myself here, sir, but I was told that this was a highly important mission which needed to be done and that I was the only man in the Department of State who could perform this mission satisfactorily.

Mr. SOURWINE. Who told you that?

Mr. OTEPKA. Mr. William O. Boswell.

Mr. SOURWINE. Do you think that is the real reason you were given this extra load of duty?

Mr. OTEPKA. I was led to believe that was the reason.

Mr. SOURWINE. Now, in line with what you know now, Mr. Otepka, are you sure there was no desire on the part of anyone to so load you with responsibilities other than the normal responsibilities of operating Deputy Chief that you could be sidetracked?

Mr. OTEPKA. I have—since I undertook to perform this mission at the instructions of my superior, I have more recently developed a reservation that perhaps this was deliberately used as a device to my detriment so that at some future time it could be said that I was not, in fact, performing my functions as Deputy Director.¹⁹

¹⁸ The text of the job description will be found at p. 205, Pt. 2, State Department Security Hearings.

¹⁹ State Department Security Hearings, pt. 2, pp. 206-207.

Otepka's title, authority reduced

Not only Mr. Otepka's title, but also his actual authority, has been reduced:

Mr. SOURWINE. Now, you told us you were formerly Deputy Director of the Office of Security. You are now acting as head of a division. Did that involve a reduction in the scope of your authority?

Mr. OTEPKA. It certainly did.

Mr. SOURWINE. Now, does this memorandum involve further reduction in the scope of your authority?

Mr. OTEPKA. I think it is a further diminution of my authority and responsibility.

Mr. SOURWINE. Can you tell us why your authority and responsibility is being continually and progressively diminished?

Mr. OTEPKA. I am afraid I can't answer that, sir.

* * * * *

Mr. SOURWINE. Has anyone charged you with any offenses for which you might be punished by this diminution of authority?

Mr. OTEPKA. No, sir.

Mr. SOURWINE. Has anyone superior to you expressed dissatisfaction with the way you performed your work?

Mr. OTEPKA. No, sir. Not to me, sir.²⁰

The committee has not yet learned whether the hope expressed by Mr. Otepka for saving the positions referred to on page 11 has proved justified. It is the hope of the committee that the position taken by Mr. Otepka will be upheld, because the committee believes Mr. Otepka's testimony that the efficiency of the Division would be hurt by the changes proposed in the memo of April 6, 1962.

The committee agrees with counsel's conclusion, as expressed in the record, that the conduct of Mr. Otto Otepka in the Wieland case and other cases, and his insistence upon what he considered good security, has, without fault on his part, brought harm to his career in the State Department, and that this is a situation greatly to be deplored. The committee urges that, as a minimum, Mr. Otepka be restored to his former position of Deputy Director of the Office of Security, where his expertise, born of many years of highly responsible experience as a security officer will be of inestimable value to the Department of State and, not less importantly, to the security of this country.

Since we closed our record on this matter, the Office of Security has been transferred out of the Bureau of Security and Consular Affairs, where it had been placed by statute, and is under a new Under Secretary for Administration. This new job has been filled by William H. Orrick, Jr., a former employee of the Department of Justice. The Office of Security is now headed by John F. Reilly, who was once an FBI agent. He has the title of Deputy Assistant Secretary for Security.

Though the transfer of the Office of Security seems to do nothing toward accomplishing closer coordination of security and personnel functions, which is very important, the subcommittee hopes these changes are for the better, and presage a general tightening of security at the State Department. We will be watching developments with interest.

²⁰ State Department Security Hearings, pt. 2, p. 195.

SECURITY PROCEDURES AT THE STATE DEPARTMENT

The differing, and sometimes conflicting, testimony given before the subcommittee makes clear that gaps exist in administration, procedures, and methods of Department of State security. The evidence raises a serious question as to whether these gaps do not endanger overall security.

Some of these gaps are partly technical, involving the excessive use of waivers on security investigations and the deplorable backdating of both these 90-day waivers and of final clearances. The use of lower echelon employees (and particularly stenographers) on classified material pending clearance creates another obvious gap. Insufficient original personnel data, and failure, in updating clearances, to consider carefully the scantiness of the original data that does exist, create still another gap in security, endangering the whole.

In considering the security techniques employed in the State Department, the existence of an atmosphere adverse even to reasonable security must be noted, as well as what the recent British white paper on security termed "public apathy." Thus technical gaps must be considered in the light of testimony indicating that the accent in State is so heavily upon protecting the individual that security needs tend to be subordinated. This was evidenced both in testimony about individual cases and in the downgrading of the security function itself in reorganizations and appointments. Those seeking to uphold administratively even existing security standards have been, according to the evidence, frequently shunted aside or, in many cases, eliminated.

The merely technical aspects of State Department security must be considered, too, in the light of disclosures that the Foreign Service is now, to a substantial degree, policing itself, instead of being subject to unprejudiced checking by non-Service security authority. Quite apart from the consequent problem of finding sufficient trained personnel, it was conceded by at least one responsible witness that a Foreign Service officer on a relatively short tour of duty on security work, and knowing he will return to regular Foreign Service assignments, may yield to the human tendency to please superiors in the Department under whom he may have to work later. This is not a question of integrity, but of inherent predisposition, involving esprit de corps and even discipline.

The tremendous importance of proper security organization and procedure, properly administered, is forcefully highlighted by the testimony of one former ranking security officer that the current Soviet major effort is to place agents in policy positions. (This same objective also was noted by the British white paper on security, which indicated some progress had been made in Great Britain by unrelenting Communist efforts in this direction. No such success with respect to our own State Department was conceded by any witness before the subcommittee although the presence of "sleepers" in the Department was deemed possible.)

Discussion in detail of some of the more glaring security deficiencies of the State Department seems justified at this point.

THE ISSUANCE OF WAIVERS

The wide use of the temporary waiver of security investigation as a device to permit new State Department employees to start work immediately came out in the questioning of Roger W. Jones, then Deputy Under Secretary of State for Administration.

Question. Do you have any people working in the State Department with access to classified material who have not been investigated?

Mr. JONES. The temporary people in the period of their 90-day employment on a waiver basis would have access to classified information.

Question. For 90 days?

Mr. JONES. For 90 days.

Question. Without being investigated?

Mr. JONES. The investigation would be going on simultaneously.

Question. Would this be true: These would be people who have not been cleared?

Mr. JONES. They have been given a waiver, a security waiver is what we call it.

Question. Who gives the waiver?

Mr. JONES. The waiver is given by the Secretary of State.

Question. In his discretion, or is this a routine thing?

Mr. JONES. Well, no, it is in his discretion, on the basis of a recommendation which, again, comes up through channels, through SCA (Bureau of Security and Consular Affairs) to me, thence from me to the Secretary.

Mr. Otto Otepka, Chief of Evaluations, explained that a waiver is an interim clearance; that it lasts only until the full investigation is completed.

Deputy Under Secretary Jones indicated that the waiver normally is given employees only after a "name check" with major Federal security agencies to indicate there is nothing adverse known about them; except, sometimes, in cases where the person has had previous security clearance of one kind or another. He stated this was true in the case of the waiver granted for Assistant Secretary of State Harlan Cleveland.

The questioning continued:

Question. Well, are there persons working in the State Department with access to classified material whose employment has never been reported to the Office of Personnel or the Office of Security?

Mr. JONES. I cannot answer that question. I do not think so, but I do not know.²¹

Mr. Otepka's testimony respecting persons not investigated who have access to classified material, and persons having such access whose employment has never been reported to the Office of Personnel or the Office of Security, was as follows:

Mr. SOURWINE. It must be true that there are many people working in the State Department with access to classified material who have not been investigated?

Mr. OTEPKA. That is correct.

Mr. SOURWINE. And that would be true both at the level of GS-4 and below, and at the officer level?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. Is it true that there are persons working in the State Department with access to classified material whose employment has never been reported either to the Office of Personnel or the Office of Security?

Mr. OTEPKA. I am not aware of any such case at this time, sir.

Mr. SOURWINE. Did you ever know of such a case?

Mr. OTEPKA. Yes, sir.

²¹ State Department Security Hearings, pt. 4, p. 385.

Mr. SOURWINE. Can you tell us about that case, if it would fall within your limitation?

Mr. OTEPKA. It would fall within my limitation insofar as names are concerned.

Mr. SOURWINE. Can you identify that case in the Department sufficiently so that they will know about it so we can get it?

Mr. OTEPKA. I have identified those cases to the Department.

Mr. SOURWINE. How? How have you identified it to the Department?

Mr. OTEPKA. By bringing to the attention of my superiors the fact that there were some persons on duty who were apparently brought in by other individuals who assumed that they had the appointing power and they did not, they simply committed these persons to an appointment without prior notification of the Office of Personnel.

Mr. SOURWINE. You did this by memorandums?

Mr. OTEPKA. I did this by memorandums.

Mr. SOURWINE. How long ago?

Mr. OTEPKA. I believe, sir, the first memorandum I wrote on this subject was dated in the latter part of February or early March 1962.

Mr. SOURWINE. And when was the last one, the last memorandum of this nature?

Mr. OTEPKA. After my initial written report to my superior on this subject. He thereafter discussed it at a higher level and the Deputy Under Secretary for Administration caused a full-scale inquiry to be conducted into this matter to identify each and every such case.

Mr. SOURWINE. Well, now, do you want to tell us that your own memorandums in this regard are classified, and therefore you cannot tell us about them?

Mr. OTEPKA. I will say that my memorandum in this case is within the administrative control designations, that I cannot, at this time, under the restrictions I feel are imposed on me, give you the names.

Mr. SOURWINE. May we ask for a copy of the memorandum and any other memorandums on this subject?

Senator HRUSKA. Yes. I think that it would fall into that category earlier discussed. However, because of the level which I understand is GS-4 or under, I don't know that would be in the same category——

Mr. SOURWINE. Well, these people are——

Senator HRUSKA. Excuse me. I thought you were talking of blanket waiver.

Mr. SOURWINE. No, sir.

Mr. OTEPKA. These would be brought at the officer level and——

Senator HRUSKA. Let us put them in the same category, the same inquiry.^{22 23}

Mr. Otepka testified independently, and without knowledge of Mr. Jones' testimony, that there were people working in State with access to classified material about whom the appropriate offices knew nothing.

Mr. SOURWINE. Mr. Otepka, what is the difference between a waiver and a clearance.

Mr. OTEPKA. Well, of course, the terms, in a sense, are synonymous. I would like to describe what a waiver is.

Mr. SOURWINE. All right.

Mr. OTEPKA. A waiver is an action by the head of a department or agency in writing to waive the requirements of a preappointment full-field investigation in case an individual is being appointed to a sensitive position. Once that waiver is signed by the head of the agency, the person gets an interim clearance, pending the completion of the full-field investigation.

After the full-field investigation is completed, on a post-employment basis, the person then has his clearance finalized.

Mr. SOURWINE. Is there always an adequate investigation in a waiver case?

Mr. OTEPKA. The investigation in a waiver case is a full background investigation which is the same as is required for any other case where the person is going to be appointed in a sensitive position. However, I must qualify this in this respect: Whenever you give a waiver, you are waiving the preappointment investigative requirement. You are appointing the person on the basis of no investigation at all or some preliminary check which, of course, doesn't meet the requirements of a full field.

Senator HRUSKA. Does that mean that waiver is always an interim thing?

Mr. OTEPKA. Yes, sir.

²² State Department Security Hearings, pt. 4, pp. 469-471.

²³ No memorandums were received in response to this inquiry.

Senator HRUSKA. And it lasts only so long until the full and final investigation can be completed which will then make the tentative clearance a final clearance? Is that the proper office of a waiver?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. Can a person who has been appointed under a waiver and has thereby received an interim clearance go ahead and give clearances for persons appointed subordinate to him?

Mr. OTEPKA. No, sir.

Mr. SOURWINE. He cannot?

Mr. OTEPKA. No, sir.

Mr. SOURWINE. Suppose a man is appointed under a waiver at the head of a bureau. Can't he appoint subordinates?

Mr. OTEPKA. Well, of course, if he is given the authority to administer the Bureau and then is empowered to effect appointments, I would say that he can appoint persons subordinate to him, but he has——

Mr. SOURWINE. Can you conceive of a man being appointed as an Assistant Secretary or Under Secretary or Deputy Under Secretary under a waiver?

Mr. OTEPKA. Well, it certainly—I can conceive that it might happen, but it certainly in the Department of State—I would say it would not be a good security practice.

Mr. SOURWINE. Do you know of any instance in which it has ever happened?

Mr. OTEPKA. Well, there, sir, again I must defer my comment on the thing because I have been out of this channel of review and if there were appointments at the Deputy Under Secretary level on the basis of waiver, I was not personally familiar with them. Certainly if such matters came to my attention, if I had been consulted, I would have felt that for that high-ranking position, there should be a full field preappointment investigation.

Mr. SOURWINE. All I asked you is whether you ever knew of anyone at the Assistant Secretary level or higher who was appointed under a waiver.

Mr. OTEPKA. There have been some waivers at the Assistant Secretary level.

Mr. SOURWINE. Can you tell us in what cases?

Mr. OTEPKA. No, sir. I can't specifically identify cases at this time.

Mr. SOURWINE. Well, how do you know there have been waivers if you don't know in what cases they have been?

Mr. OTEPKA. Well, there have been persons who were candidates for positions of the Assistant Secretary of State where prior to completion of their full field FBI investigation, they were entered on duty on the basis when given a so-called consultant position in the interim.

Mr. SOURWINE. Who were the individuals you are referring to?

Mr. OTEPKA. Well, sir, I must respectfully refer you to our regulations on that point as to identifying those cases. I think I would have to get the permission of my superiors to identify names, sir.²⁴

In connection with the above, the following testimony by Mr. Elmer Hipsley, former assistant to Scott McLeod and one of the few "old line" security officers left in the State Department, is highly pertinent:

Mr. SOURWINE. Is it true that there are persons working in the State Department with access to classified material whose employment has never been reported either to the Office of Personnel or the Office of Security?

Mr. HIPSLEY. This I would not know, sir.

Mr. SOURWINE. Could it be?

Mr. HIPSLEY. I would hope not.

Mr. SOURWINE. Well, from what you know of departmental procedures, if the procedures are followed as laid down, could this happen?

Mr. HIPSLEY. No, sir.

Mr. SOURWINE. And yet you cannot say it has not happened?

Mr. HIPSLEY. I can only say I know of no such case.

Mr. SOURWINE. You know of no such case; all right.

Is it common practice in the State Department to antedate security clearances?

Mr. HIPSLEY. No, sir.

Mr. SOURWINE. Do you know of any case or cases in which this has been done?

Mr. HIPSLEY. No, sir.

²⁴ State Department Security Hearings, pt. 4, pp. 463-464.

Mr. SOURWINE. You do not know of any single case in which a security clearance has been antedated?

Mr. HIPSLEY. No, sir.

Mr. SOURWINE. Would this be contrary to departmental regulations and procedure?

Mr. HIPSLEY. I could not say that it would be contrary. It certainly would not be in keeping with them. I would certainly not endorse such a practice.

Mr. SOURWINE. Well, suppose the Secretary of State wanted a man's record to show that he had been cleared 3 weeks ago, come Sunday, and he instructed that the record be made to so show, would he be violating any rules or regulations of the Department?

Mr. HIPSLEY. I do not think he would be violating any rules or regulations.

Mr. SOURWINE. Would he be doing violence to good security procedures?

Mr. HIPSLEY. That could be; yes, sir.

Mr. SOURWINE. What do you mean, it could be? How could you run a security system if you could antedate security clearance and date them back 3 weeks or 3 months or any other time?

Mr. HIPSLEY. Well, of course, here you have done this on the instruction of the Secretary of State, sir.

Mr. SOURWINE. I have not done it. I am just talking about its being done. Do you think the fact that the Secretary of State did it would mean that it would not be violence to security procedure?

Mr. HIPSLEY. I think it would be in violation of the intent of the security procedure.

Mr. SOURWINE. Why, of course it would, no matter who did it.

Mr. HIPSLEY. Yes, sir.²⁵

Deputy Under Secretary Jones and William O. Boswell had both testified that it was not State Department policy to backdate security clearances, and both had denied knowing of any such cases.

Question. Is it common practice in the State Department to antedate security clearances?

Mr. JONES. To antedate, to backdate them?

Question. Yes.

Mr. JONES. No, sir.

Question. Do you know of any case in which it has been done?

Mr. JONES. I do not recall of any case in which it has been done.

Question (to Mr. Boswell). Do you know of any single case?

Mr. BOSWELL. No, sir.

On March 20, however, Deputy Under Secretary Jones wrote Chairman James O. Eastland of the subcommittee that, on information from Mr. Otepka, relayed through Mr. Boswell, he had ordered an investigation of this matter of backdating waivers and clearances.

On April 12, 1962, asked about this, when he appeared, Mr. Otepka gave the following testimony:

Mr. SOURWINE. * * *

The committee has been advised, Mr. Otepka, by another officer of the Department who communicated with a member of the committee, that you recently informed Mr. Boswell respecting the antedating of security clearances. Can you tell us how many cases of that nature there were in the information you gave Mr. Boswell?

Mr. OTEPKA. I identified in that memorandum something like 30 cases.

Mr. SOURWINE. How long has that investigation been going on of all such cases in the Department?

Mr. OTEPKA. Approximately 3 weeks.

Mr. SOURWINE. Do you know how many cases have been uncovered so far?

Mr. OTEPKA. I do not.

Mr. SOURWINE. Can you tell us who is conducting this investigation?

Mr. OTEPKA. Members of the Foreign Service Inspection Corps.

Mr. SOURWINE. Again, can you name them?

Mr. OTEPKA. I don't think I would be privileged to recite the names of the inspectors.

²⁵ State Department Security Hearings, pt. 4, pp. 419-420.

Mr. SOURWINE. I will say for the record, Mr. Chairman, I have asked for this information and we don't have it yet. I would like to have the request remade, if it be the pleasure of the Chair, so that it will be on the committee record, as to the names of the individuals conducting this investigation.

Senator HRUSKA. Was any acknowledgment made of the request?

Mr. SOURWINE. Yes, sir.

Senator HRUSKA. Was any word received on it, whether it was going to be complied with or going to be denied?

Mr. SOURWINE. I was told, sir, and I will ask Mr. Leahy to check me if I am correct, that Mr. Jones was conducting this investigation personally and the personnel were only used or were only employed ad hoc.

Is that correct, Mr. Leahy?

Mr. LEAHY. That is correct.

Mr. SOURWINE. Now it appears from Mr. Otepka's testimony the investigation is in fact being conducted by a team from the Inspector General's Office.

Senator HRUSKA. Maybe you are talking about two different things.

Mr. SOURWINE. No; we are talking about the same thing, I am sure.

Senator HRUSKA. Well, I will instruct counsel to renew his request.

Mr. SOURWINE. I may prefer it not to be transferred back to the Department but to express my opinion, while I am sure Mr. Jones would have control over the investigation, I was quite sure he was not personally doing the work and if he delegated it to others, there is somebody in charge of it and we should be able to get the names of those doing it, so that is a further request.

Mr. LEAHY. Yes, so noted.²⁶

Mr. SOURWINE. When did you first go to Mr. Boswell with a complaint about either the antedating of a security clearance or the antedating of a waiver?

Mr. OTEPKA. Well, I mentioned, sir, that it was—I cannot give you the specific date, but it was in the latter part of February or first week in March.

Mr. SOURWINE. Of this year?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. In other words, your memorandum of about that time was the first occasion you had to call this to Mr. Boswell's attention?

Mr. OTEPKA. Well, my recollection, sir, is that I orally informed Mr. Boswell in the latter part of February after I identified a specific case and then I subsequently wrote a memorandum to him in which I identified other cases.²⁷

The Kotschnig case

Deputy Under Secretary Jones was questioned at some length about several cases involving waivers, or where important appointments were made without completed security investigations. Testimony regarding the case of Mr. Walter M. Kotschnig is worthy of particular attention.

Mr. SOURWINE. Mr. Jones, can you tell us about the handling of the security case of Mr. Kotschnig?

Mr. JONES. I was completely unaware of the case of Mr. Kotschnig until I got the little pink slip which came from you.

Mr. SOURWINE. When I knew I was going to ask about this case I asked Mr. Leahy to hand it to you so you would not come here unprepared.

Mr. JONES. I did ask the Office of Security to prepare a summary of the Kotschnig case for me which could be compared with the records of my own office. In brief, this situation is as follows:

On April 4, the part of my office which handles Presidential appointments requested the Office of Security to review Mr. Kotschnig's file. When I say "review"—this Mr. Kotschnig is a longtime employee of the Department. In connection with his consideration for a Presidential appointment requiring Senate confirmation—that was the appointment as U.S. representative to the plenary session of the Commission for Europe of the Economic and Social Council of the United Nations, and the dates of the meetings were from April 24 until May 10.

As soon as this got to our Security Office they advised that there was not a current updated investigation by the FBI and that in the light of some of the materials in the files it would have to be referred to the FBI and the file was reviewed and the referral to the FBI was made April 10, 1962.

Mr. SOURWINE. That meant, did it not, that there were questions, unresolved questions of a special order?

²⁶ The information requested was not furnished to the subcommittee.

²⁷ State Department Security Hearings, pt. 4, p. 472.

Mr. JONES. In the judgment of the Office of Security there were matters which required FBI attention.

Mr. SOURWINE. Well, that is what I meant when I said that, as requiring FBI attention.

Mr. JONES. Yes. The employment, however, of Mr. Kotschnig in the Department indicated it was appropriate to go ahead with the appointment by virtue of the fact that Mr. Kotschnig had had prior FBI investigations, in fact three, under 10450 and all of the data developed by these investigations including interviews with Mr. Kotschnig were considered under the standards of Executive Order 10450 and he had been given clearance for employment and continued employment under those standards March 28, 1955.

So what was involved in the referral of the case to the FBI was in effect an updating from the time of the last FBI report.

Mr. SOURWINE. Was there any waiver involved in this case?

Mr. JONES. No, there was no waiver because the 10450 had never withdrawn.

Mr. SOURWINE. And he was appointed, then, before the FBI report had been received?

Mr. JONES. Yes.

Mr. SOURWINE. Has he been confirmed?

Mr. JONES. Well, he—I can only assume so, because he attended the meetings.

Mr. SOURWINE. Yes. Do you know whether the Foreign Relations Committee was advised with respect to the pending FBI investigation?

Mr. JONES. They were.

Mr. SOURWINE. Is this the same Dr. Kotschnig who was the general secretary of the International Student Service?

Mr. JONES. I assume he must have been because the files indicate he was involved with the International Student Service.

Mr. SOURWINE. And this same man is reported in the New York Times of September 7, 1931, as having told a so-called world rally at Mount Holyoke College that: "It is the students' responsibility to get away from this sentimental nationalism," and he spoke against, and I quote this, "cheap patriotic societies which exist everywhere in the world."

Mr. JONES. That quotation was given to me in the summary of the Kotschnig case which was handed me last night.

* * * * *

Mr. JONES. This was in 1931, September 7?

Mr. SOURWINE. This is correct. He came to the United States from Austria in 1937.

Mr. JONES. In 1936; yes, sir.

Mr. SOURWINE. And he was brought into the Division of International Affairs of the Office of Special Political Affairs of the State Department by Mr. Hiss who was then the Deputy Director of that Office?

Mr. JONES. I would have to find out, I would have to check this. I don't know whether I have this information or not. I do know the record reveals he did serve under Mr. Hiss' supervision at one time.

Mr. SOURWINE. Have you seen the security file, has the report come in?

Mr. JONES. The report from the FBI?

Mr. SOURWINE. Yes.

Mr. JONES. I have not seen it.

Mr. SOURWINE. Do you know whether the allegations that Kotschnig was a former Nazi have been satisfactorily resolved?

Mr. JONES. I don't, sir, and there is no reference to his being a former Nazi in the summary given to me.

Mr. SOURWINE. There is not?

Mr. JONES. No, sir.

Mr. SOURWINE. Does that summary contain numerous allegations by State Department officials and employees expressing the opinion that Mr. Kotschnig was pro-Communist?

Mr. JONES [after examining documents]. May I apologize, Mr. Chairman, but I have to go through these.

I find no allegations in this file by the Department of State people against Mr. Kotschnig except by one employee—

Mr. SOURWINE. May I ask, when you say "this file," what file is that?

Mr. JONES. I am looking at the summary of the Kotschnig security file provided me last night.

Mr. SOURWINE. Will you give us the date of that summary?

Mr. JONES. This was given me last night.

Mr. SOURWINE. It is the only summary?

Mr. JONES. I don't know that, sir. I asked for a special summary.

Mr. SOURWINE. Is the only one furnished you?

Mr. JONES. Yes, sir, dated June 6.

Mr. SOURWINE. I see. All right. Is it possible for this summary to be furnished to this committee?

Mr. JONES. No, sir, I could not furnish this under the restrictions placed upon us with respect to furnishing security data.

Mr. SOURWINE. Does that reflect that, in Kotschnig's opinion, Mr. Hiss was improperly convicted and was, in fact, innocent?

Mr. JONES. No, sir.

Mr. SOURWINE. Do you know what his position is in that regard independently of the file?

Mr. JONES. As given to me, it indicates that Mr. Kotschnig under interrogation indicated that he was surprised when the *Hiss* case broke, that he had been condemned by proper processes and that he "had been found guilty and that is good enough for me."

Mr. SOURWINE. Do you know whether he still holds the position he is innocent?

Mr. JONES. I don't know.²⁸

Under date of April 30, 1962, Mr. Jones again wrote Senator Eastland and disclosed that, as of that date, "the present Secretary of State," Dean Rusk, had granted 152 individual security waivers (to persons above the rank of FSS-4 and GS-13).

"It was established," wrote Mr. Jones, "that there have been instances where both security waivers and security clearances have been backdated."

Backdating, he reported, had occurred in 25 cases with regard to waivers and in 19 cases involving final clearances.

The information, together with a generalized explanation, did not satisfy the subcommittee chairman, and under date of May 7, 1962, Senator Eastland wrote asking more detail.

It was disclosed that 12 cases of backdating 90-day waivers for "temporary consultants" involved the following:

Adolf Berle.....	Waiver backdated 20 days.
Clarence Randall.....	Waiver backdated 21 days.
Arthur Wexler.....	Waiver backdated 12 days.
David Green.....	Waiver backdated 5 days.
David Cottrell.....	Waiver backdated 7 days.
John Hoving.....	Waiver backdated 18 days.
Charles Marshall.....	Waiver backdated 9 days.
Warren Roberts.....	Waiver backdated 8 days.
William Diebold.....	Waiver backdated 8 days.
Thomas Schelling.....	Waiver backdated 38 days.
Peter Davies.....	Waiver backdated 28 days.
Warren Christopher.....	Waiver backdated 27 days.

Seven consultants had their final clearances backdated by periods of from 8 to 135 days. Specific data was given in other cases as to the time element; but it was asserted that no records were made of those who asked for the backdating.

The investigation producing all material on this subject was conducted by a Foreign Service inspection team for Mr. Jones and not by the Security Office.

"In every case," wrote Mr. Jones, "a senior policy officer stated that there was urgent need for the individual concerned."

He referred to his letter of April 30 in which he had asserted that the reasons for the backdating were:

²⁸ State Department Security Hearings, pt. 4, pp. 478-481.

The pressure of work at the start of a new administration when many new appointments, particularly of consultants, were needed.

Unfamiliarity of new policy officers with security and appointment procedures and the desire of lower echelons to help new officers and not to appear to impede them by insistence on established administrative procedure.

Uncertainty as to the degree in which prior clearances could be properly substituted for new investigations.

Failure to record dates of telephonic clearances obtained in priority handling of certain cases under emergency procedures for making national agency checks, and delay in paperwork after such clearances were obtained.

Assumption that the absence of any finding justified dating waiver papers as of the date of entrance on duty where such date was earlier than preparation of the waiver.

All of these reasons appear to involve administrative confusion. The granting of so many waivers, and the backdating of such waivers and of final clearances after thorough investigation, allowed unauthorized personnel, not provably safe, to handle classified material at all levels except those requiring special clearance and then served as a "cover-up" for this laxity. Such administrative confusion itself, which is capable of causing mistaken actions such as the appointment of personnel without the knowledge of the Personnel Office, let alone the Security Office, must be regarded as a danger to security.

The waiver provision in Executive Order 10450 obviously exists to deal with the very special and occasional case where an expert is needed at once. No evidence was adduced to show how many, if any, of those granted waivers in 1961-62 were either experts or essential; it was merely explained that "senior officers" (an ambiguous and, therefore, virtually meaningless term) said they desired them.

In some of these cases, it is obvious the backdating of waivers enabled a man, or woman, to be put on the payroll at once pending paperwork and the backdating of final clearances to cover the period between the expiration of waiver and final clearance simply kept them on the payroll while obscuring the true facts. Mr. Jones reported that, in 13 cases of backdating waivers, 3 days or less were involved and that the same was true of 3 final clearances. This timelag is not the point. Mr. Jones said under oath that he was unaware of backdating and, when challenged by the committee and subsequently informed the practice did exist, he halted it, at least for the moment.

This, in itself, shows the degree of administrative confusion and points to another fault in security: the current dependence on individuals, rather than on method and organization.

There are two particularly significant points to make in connection with this waiver and backdating procedure:

1. The tendency is to resolve doubts in the case of final clearance in favor of a person already working on a job, a point underlined by Mr. Jones' testimony during the hearings when he said that good and bad points in a personnel record sometimes were "balanced off." The natural tendency has always been in Government to resolve uncertainties in favor of an incumbent.

2. The criteria of final clearance were, in a practical sense, modified during the period waivers were in force. This modification occurred because of—

- (a) Attempted reorganizations, and actual reorganization, of the State Department's Security Office itself;

- (b) The absence of trained, experienced personnel at the top in the Bureau of Security and Consular Affairs (SCA), normally

the supervisory and review office for the Security Office, the Administrator of SCA having the weight of Assistant Secretary rank; ^{28a}

(c) The pressure on individual security officers as a result of action attempted against them and the example of this on other security officers; and

(d) The willingness of ranking departmental officers to overrule the experienced security experts who were their subordinates.

All four of these points were the subject of exhaustive testimony before the subcommittee, centering upon the possibility that a person who might not have been clearable at the time of granting a waiver could be cleared before his waiver expired.

In his testimony April 12, Mr. Otepka, the professional with the longest experience in security work to have held high rank (that of Deputy Director of the Security Office) had testified that there were certain blanket waivers. He said:

The Department of State, because of the competition it has encountered from private industry and other Government agencies for the services of qualified clerks, has found it necessary to waive the full-scale investigations required for clerical personnel, GS-4 and below, in order to secure these people immediate appointment.

Question. So all these, GS-4 and below, are appointed with blanket waiver?

Mr. OTEPKA. Yes, sir.

Question. It must be true that there are many people working in the State Department with access to classified material who have not been investigated?

Mr. OTEPKA. Yes, sir.

In his letter of May 28 replying to questions by Chairman Eastland, Deputy Under Secretary Jones disclosed that "comparable grades in the Foreign Service" also were exempted and that in April 1962 the Secretary of State had raised the blanket waiver to cover grade GS-6 and the Foreign Service equivalent.

With the only slightly reassuring note that "persons so appointed are not assigned to particularly sensitive areas such as cryptography and atomic energy", Mr. Jones revealed that, under this blanket waiver, 616 civil service personnel were hired from January 23, 1961, to May 17, 1962, to work on classified material if necessary. Full field investigations had not, as of the latter date, been finished on 70 of the civil service or on 3 Foreign Service Staff employees, Mr. Jones stated.

INADEQUATE CONSIDERATION OF SECURITY CASES

1. Lack of cooperation between Personnel and Security Offices

One of the most disconcerting facts developed by the subcommittee was the lack of more than minimal cooperation between the State Department's Security and Personnel offices.

There is no adequate exchange of information between the two offices and facts in the possession of one may not come into possession of the other. This is particularly true with respect to the Personnel Office which has failed to develop a "selection out" system for the Foreign Service, to get rid of deadwood or otherwise unsuitable personnel, as is the case with the armed services. Instead, the effort has been to protect all those who have become members of the Foreign

^{28a} The Office of Security was moved out of SCA by order of the Secretary of State in 1962. State Department Security Hearings, pt. 4, p. 426.

Service, irrespective of merit to a degree unprecedented in other permanent services, including the military.

The late Scott McLeod, former Administrator of Security and Consular Affairs and former Ambassador to Ireland, testified:

I know of no instance in which the board of the Foreign Service has fired a Foreign Service officer.

Question. Never is a long, long time.

Mr. McLEOD. Well, this act (the current Foreign Service Act) has been in effect since 1946.

2. *Downgrading of security cases not involving loyalty.*

Correctly speaking, a loyalty case is only one class of security case. But there is a growing tendency to regard "loyalty" and "security" as synonymous.

In a loyalty case, a person's loyalty to the United States is involved. Other security cases may involve anything from frequent intemperance to criminal conduct, and embrace any of such diverse factors as drug addiction, various types of immorality, and sexual perversion.

As a result of the Supreme Court decision in *Cole v. Young*, testimony showed, the Civil Service Commission has issued instructions that, unless loyalty is involved, dismissal should be for reasons of suitability, not of security per se. (This, too, points to the need for closer cooperation between security and personnel organizations.)

CSC order substitutes "suitability" for "security"

Mr. OTEPKA. * * * today as a result of a Supreme Court decision in which they attempted to identify what they call loyalty oriented facts and nonloyalty oriented facts, suitability then consists of matters which I related a while ago, criminal conduct, sex perversion, immorality, and other forms of personal misconduct which have no bearing on the national security per se.

Mr. SOURWINE. What Supreme Court decision was that, do you know?

Mr. OTEPKA. *Cole v. Young*.

Mr. SOURWINE. You are saying that suitability factors such as you have named are not considered in connection with security.

Mr. OTEPKA. The Civil Service Commission, as a result of the *Cole v. Young* decision, issued an instruction to all departments and agencies that where they uncover these suitability factors, that the department or agency utilize either the civil service regulations or other regulations to remove the person on grounds of general unfitness for the Federal service rather than on grounds of national security.

Mr. SOURWINE. You are not saying that these things are no longer security factors. You are simply saying there is an instruction from the Civil Service Commission that where you find such matters, you are to proceed under suitability rather than proceeding under security.

Mr. OTEPKA. Yes, sir. Where separation may be warranted.

Mr. SOURWINE. It would be possible to proceed either way.

Mr. OTEPKA. It would be possible to proceed either way.

* * * * *

Mr. SOURWINE. * * * What are the factors which enter into a determination with respect to a loyalty case?

Mr. OTEPKA. Evidence of sabotage, espionage, treason, membership in subversive organizations, affiliation with a subversive organization, sympathetic association with subversive individuals, and so forth.

Mr. SOURWINE. What are the other factors which enter into the determination of a security case?

Mr. OTEPKA. Criminal conduct, immorality, habitual use of intoxicants to excess, drug addiction, and any form of behavior or activity or association which indicates the person may not be reliable.

Mr. SOURWINE. How about misuse of classified information?

Mr. OTEPKA.¹⁸ The intentional disclosure of classified information to unauthorized person, to the detriment of the United States, may be a ground for separation of a person as a security risk on the ground of disloyalty to the United States if he intended to harm the United States. If it is merely a negligent or careless disregard of security regulations where a person forgets to lock his safe or something like that, or carelessly leaves a classified document on his desk, and he has a recurring record of this, according to the understanding that we have from the Civil Service Commission admonitions you separate the person on grounds of negligent conduct—unreliability, for there was no intention to harm the United States.

Mr. SOURWINE. What I am trying to get at, intention is sometimes hard to prove. It is subjective rather than objective. Can you tell us what are the factors which enter into the determination of a security case other than those which would be factors in determination of a loyalty case and which you are not required to separate out and consider as a suitability factor. You see what I am trying to get at? Is there anything left in the security classification—less than disloyalty but more than suitability?

Mr. OTEPKA. No. I wouldn't think so.

Mr. SOURWINE. In other words, under the instructions of the Civil Service Commission, if it isn't a loyalty case, you handle it as suitability.

Mr. OTEPKA. You invoke the separation powers which are given to the agency by the Civil Service Act.

Mr. SOURWINE. Yes. But you don't put him out as a security risk.

Mr. OTEPKA. No. You don't put him out as a security risk.

Mr. SOURWINE. Even though you have factors that your own regulations would authorize doing so.

Mr. OTEPKA. That is correct.

Mr. SOURWINE. You process it as a suitability matter rather than as a security matter. In other words, security has been milked over into suitability until there is no such thing as a security case any more unless it is strong enough to be a loyalty case.

Mr. OTEPKA. Yes, sir.¹⁹

TOP LEVELS OVERRIDE SECURITY OFFICERS

The gap in security caused by lack of close cooperation between State security and personnel organizations is complicated by clear deficiencies in obtaining the records of personnel and in considering all the information when it is available, plus a current tendency at high department levels to overrule trained security personnel.

Adverse recommendations in security cases by the State Department's Office of Security were made in a good deal more than the number of cases (four) of security separations by removal under Public Law 733, during Mr. Otepka's service with the Department of State:

Mr. SOURWINE. Mr. Otepka, how many adverse decisions in security cases have you been aware of while you have been with the Department of State?

Mr. OTEPKA. I can state this for the record, that since I have been with the State Department, that there have been four persons removed from the Department of State as security risks, after the full proceedings prescribed by Public Law 733.

Mr. SOURWINE. That included Mr. Service.

Mr. OTEPKA. Well, no, sir, that does not include Mr. Service.

Mr. SOURWINE. My question was, How many adverse decisions?

Mr. OTEPKA. I don't think I can testify as to that. On adverse decisions, final decisions to separate, there were four.

Mr. SOURWINE. Maybe I can start afresh. In how many instances to your knowledge while you have been in the State Department has the Office of Security found adversely?

Mr. OTEPKA. I don't feel I am authorized to give that.

Mr. SOURWINE. A good deal more than four, isn't it?

Mr. OTEPKA. Yes, sir.

¹⁹ State Department Security Hearings, pt. 4, pp. 456-457.

Mr. SOURWINE. Is it as much as 10 times 4?

Mr. OTEPKA. Mr. Sourwine, I could not give you that figure. That would have to be obtained from the Department.

Senator HRUSKA. I think that we should make a request for it. It may have some bearing on the effectiveness of the procedures. Will counsel be guided accordingly?

Mr. SOURWINE. Very good. You have it noted?

Mr. LEAHY. I would like to clarify exactly what it is.

Mr. SOURWINE. During Mr. Otepka's period of service with the State Department in how many security cases has the Office of Security recommended adverse decision? It is 40 or 30 or whatever?^{30 31}

* * * * *
Now, are there any fixed procedures in the Department which have been reduced to writing, involving the handling of security cases?

Mr. HIPSLEY. Oh, yes, sir.

Mr. SOURWINE. How can we get at these—I think we would like to have them for our record. Where can we get them?

Mr. HIPSLEY. In the Department's "Manual of Regulations and Procedures."

Mr. SOURWINE. Are you familiar with this manual?

Mr. HIPSLEY. Yes, sir.³²

* * * * *
Mr. SOURWINE. Does it say anything about who shall handle the case and who shall put their recommendations on it before it gets to the Deputy Under Secretary?

Mr. HIPSLEY. Yes, it does.

Mr. SOURWINE. Does it say anything about whether, the case once having been submitted to the Under Secretary level or above, the person at that higher level has to make some written disposition of it?

Mr. HIPSLEY. Yes, sir; I think it does.

Mr. SOURWINE. It does?

Mr. HIPSLEY. I think this is the administrative procedure, sir.

Mr. SOURWINE. Would you undertake to go to that manual and excerpt for us the portions bearing on the questions I have just asked?

Mr. HIPSLEY. Yes, sir.

Mr. SOURWINE. Will you do this?

Mr. HIPSLEY. Yes, sir.

Mr. SOURWINE. Any objection from the Department?

Mr. LEAHY. I am sure there is not.

Mr. SOURWINE. May that go in the record at this point?

Senator DIRKSEN. Yes, without objection.

(The documents referred to are as follows:)

EXCEPTS FROM FOREIGN AFFAIRS MANUAL

PERSONNEL (DEPARTMENT)

1900 SECURITY OF EMPLOYEES

* * * * *
1911 *Definitions*
* * * * *

c. As used herein, the term "sensitive position" shall mean any position in the Department of State the occupant of which could bring about, because of the nature of the position, a material adverse effect on the national security. Such positions shall include, but shall *not be limited* to, any position the occupant of which (1) may have access to security information or material classified as "confidential", "secret", or "top secret", or any other information or material having a direct bearing on the national security, and (2) may have opportunity to commit acts directly or indirectly adversely affecting the national security. In view of the highly

³⁰ The material requested had not been made available to the subcommittee when the testimony was sent to the printer.

³¹ State Department Security Hearings, pt. 1, pp. 110, 111.

³² State Department Security Hearings, pt. 4, p. 403.

sensitive nature of the operations and activities of the Department, all positions shall be considered "sensitive" within the meaning of the above definition; except such positions as may be specifically designated otherwise by the administrator, Bureau of Security and Consular Affairs.

1912 *Policy*

The Department of State, because of its responsibility for the conduct of foreign affairs, is a vital target for persons engaged in espionage or subversion of the United States Government. Owing to this fact and because of the great number of highly classified communications which pass through the Department, the security of which is essential to the maintenance of peaceful and friendly international relations, it is highly important to the interests of the United States that no person be employed in the Department who constitutes a security risk. It shall be the policy of the Department to employ and retain in employment only those persons whose employment or retention in employment is found to be clearly consistent with the interests of the national security. Further, it shall be the policy of the Department to require the maximum obtainable security of its operations and personnel consistent with the efficient discharge of its responsibilities.

* * * * *

1914 *Investigative Requirements*

1914.1 Every appointment made within the Department of State shall be made subject to a full field investigation: Except, that to the extent authorized by the Civil Service Commission, a less investigation may suffice with respect to per diem, intermittent, temporary, or seasonal employees, or aliens employed outside the United States.

1914.2 No sensitive position in the Department of State shall be filled or occupied by any person with respect to whom a full field investigation has not been conducted: Provided, that employee occupying a sensitive position on the effective date of these regulations may continue to occupy such position pending the completion of a full field investigation, subject to the other provisions of these regulations; and provided further, that in case of emergency a sensitive position may be filled for a period not to exceed 90 days by a person with respect to whom a full field preappointment investigation has not been completed if the Secretary of State finds that such action is necessary in the national interest. Such finding shall be filed in both the investigation and personnel records of the person concerned.

* * * * *

1920 SECURITY STANDARDS AND PRINCIPLES

1921 *Security Standard*

The standard for refusal of employment or removal from employment in the Department of State under the authorities referred to in section 1913 shall be that, based on all the available information, the employment or continued employment of the person concerned is not clearly consistent with the interests of the national security.

1922 *Security Factors*

Information regarding an applicant or employee of the Department of State which may preclude a finding that his employment or continued employment is clearly consistent with the interests of the national security shall relate but shall not be limited to the following:

- a. Depending on the relation of the Government employment to the national security:
 - (1) Any behavior, activities, or associations which tend to show that the individual is not reliable or trustworthy.
 - (2) Any deliberate misrepresentations, falsifications, or omissions of material facts.

* * * * *

g. Performing or attempting to perform his duties, or otherwise acting, so as to serve the interests of another government in preference to the interests of the United States.

* * * * *

1923.2 No decision shall be made to employ or retain in employment a person if there is a reasonable doubt as to whether such employment or retention in employment is clearly consistent with the interests of the national security.

* * * * *

1933 If the reports of investigation, as referred to in 3 FAM 1932, contain derogatory information relating to any of the matters referred to in 3 FAM 1922 indicating that the continued employment of the person concerned is not clearly consistent with the interests of the national security, the reports, together with the entire file in the case, shall be forwarded to the Administrator, Bureau of Security and Consular Affairs.

1934 Upon receipt of the investigative record, the Administrator, Bureau of Security and Consular Affairs, shall make an immediate evaluation as to the necessity for suspension of the employee in the interests of the national security. If the Administrator deems suspension necessary, he shall so recommend to the Secretary (or his designee) who shall make a positive determination as to the necessity for such suspension in the interests of the national security. If suspension is not deemed necessary, a written statement to that effect by the officer making such determination shall be made a part of the investigative file of the person concerned.

* * * * *

1960 NOTICE OF PERSONNEL ACTION

Copies of all notices of personnel action taken in security cases shall be immediately supplied by the Administrator, Bureau of Security and Consular Affairs, to the United States Civil Service Commission.³³

There has been a lamentable tendency not to look fully enough into the early background of those who came into the service prior to World War II or before there was great consciousness of the need for security. For example, in the case of William Wieland, a full field investigation, when finally undertaken, immediately revealed that he had lived both as a boy and in early adulthood in Cuba under his stepfather's name, Montenegro. His life under this name had never been investigated until a blanket of years had fallen and then only after the Red takeover in Cuba during which this man was a responsible officer of the Department.

We found that there were more (security) files outside the file room than inside the file room, and in many cases (of) employees who had been on the rolls for years, there were no security files whatsoever.

This was the statement of Scott McLeod, former Administrator of the Bureau of Security and Consular Affairs, as to conditions when he took over that top State security position in 1953. With 11,000 cases to be investigated under Executive Order 10450, Mr. McLeod made clear, some fairly thin files had to be used at times, to reach judgments. The situation has improved greatly, but not enough. Apparently most of the improvement was during Mr. McLeod's tenure. Updating of clearances for senior officers of State began sometime after 1958 and it has proved impossible, as a practical matter, to update the files of those in the middle ranks. The tendency to accept initial data on those who were in the service before the present security system required more complete checks, and the failure in some cases even to look at such files as exist, have both contributed to perpetuation of a lax security situation.

Deputy Under Secretary Jones said on this point:

In years past, long before I came to the Department of State, people were appointed without investigation. The investigative part of employment came into being roughly at the start of the World War or defense period.

³³ State Department Security Hearings, pt. 4, pp. 404-416.

Various kinds of clearances, moreover, exist for various types of personnel in State.

Mr. Otepka, in response to questioning, testified that Foreign Service officers entering upon their careers in the lower grades do not customarily have FBI investigations, but are investigated, instead, by the State Department Security Office.

Question. Is a Foreign Service officer normally subjected to FBI investigation in the lower grades?

Mr. OTEPKA. Normally not.

Question. How are they investigated?

Mr. OTEPKA. They are investigated by the [State Department] Office of Security—full background investigations.

Question. Don't you see anything wrong or dangerous in having Foreign Service officers evaluating for a security clearance other Foreign Service officers who have been, or are likely to be in the future, their superiors?

Mr. OTEPKA. Yes, I do.

Mr. Otepka testified he saw danger in having Foreign Service officers evaluating other Foreign Service officers for security:

Mr. SOURWINE. * * * Mr. Otepka, is there any aspect of the State Department's security mission which of necessity had to be handled by Foreign Service officers?

Mr. OTEPKA. As of necessity, sir?

Mr. SOURWINE. Yes, sir.

Mr. OTEPKA. I don't think there is any security operation in the State Department that as of necessity must be handled by a Foreign Service officer.

Mr. SOURWINE. All right, sir.

Are there any good reasons why certain security functions of the Department should not be handled by Foreign Service officers?

Mr. OTEPKA. I will say that if a Foreign Service officer is qualified professionally in the field of security, I see no reason why he could not be assigned to duties as a security officer.

Mr. SOURWINE. Don't you see anything wrong or dangerous in having Foreign Service officers evaluating for security other Foreign Service officers who have been or are likely to be in the future their superiors?

Mr. OTEPKA. Yes, I do.

Mr. SOURWINE. In this respect do you have an opinion as to whether the evaluation of Foreign Service officers with respect to security should be done by persons who are not in the Foreign Service?

Mr. OTEPKA. We are talking about evaluation of security investigated cases?

Mr. SOURWINE. Yes, sir.

Mr. OTEPKA. Well, my feeling on this is purely my personal opinion.

Mr. SOURWINE. All right.

Mr. OTEPKA. And from my experience I have found that we must, I think as of necessity here, have an individual evaluating who is sufficiently steeped in all aspects of the nature of the Communist movement as well as other totalitarian movements, that he must have a well-rounded background in other aspects of security as well, such as investigations. Otherwise, if he doesn't have this background knowledge and furthermore if he is in the job only on a temporary rotational basis, then I think his thinking will be motivated in other directions than trying to do a real bangup job as a professional security officer.

Mr. SOURWINE. Mr. Otepka, I am not trying to put words in your mouth. There are those who feel that evaluations from a security standpoint of Foreign Service officers and perhaps even investigations for security of Foreign Service officers should be handled by individuals who are not in the Foreign Service and are never going to have to work under the people that they are investigating or evaluating.

I will be perfectly frank to say I happen to have that view myself. I am not trying to get you to adopt it if you don't have it. I am simply trying to find out if you share that view.

Mr. OTEPKA. I understand, sir, and I—in my comments on this subject, I didn't want to question the qualifications of those in the Foreign Service who have had security backgrounds.

Mr. SOURWINE. No. It is not a matter of questioning anybody's qualifications. It is exactly the same as when the argument was made that the Safety Bureau to investigate air accidents shouldn't be under the control of the same Bureau that made the regulations and administered them. This is the same kind of thing. I am not trying to put you on the spot. If you don't want to state your opinion on that matter, I won't force it. I simply ask the question.

Mr. OTEPKA. I mentioned this morning, off the record, that there is a need for continuity and stability in the security program and you are not going to get it by this turnover system which operates under the Foreign Service system.^{33a}

Deputy Under Secretary Roger Jones testified as follows:

The security investigations are handled in several different ways. First we have our own Office of Security; they handle the large bulk of our security investigations.

The Presidential appointees³⁴ in State, under the standard rule which has prevailed for a good many years, are investigated by the Federal Bureau of Investigation under what is commonly called a full field investigation.

Occasionally, when the workload is more than we can keep current, we will contract with either the Civil Service Commission or the Federal Bureau of Investigation to conduct an investigation which they can appropriately conduct.

Neither of these agencies operates overseas. Neither of these agencies ever uses the technique of interrogation of the individual, so they are not in a position to do a complete investigation from our point of view.

The Civil Service Commission has authority to interrogate when it has jurisdiction over the appointee. It uses this technique, especially in interrogating suspected homosexuals. Likewise, when the FBI is conducting a security case involving a State Department employee, it may use the technique of interrogation of the individual. However, this is done with the permission of the employing agency.³⁵

On the question of investigation of Presidential appointees in the Department of State, also, Mr. Otepka's testimony was contrary to the testimony given by Deputy Under Secretary Roger Jones:

Mr. SOURWINE. Mr. Otepka, are all Presidential appointees in the Department of State subjected to a full field investigation?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. Are all Presidential appointees in the Department investigated by the FBI?

Mr. OTEPKA. Well, I will have to draw a line of demarcation there, sir. When we talk about all Presidential appointees, certainly the initial entrance of a Foreign Service officer in the Foreign Service of the United States is a Presidential appointment.

Mr. SOURWINE. Correct.

Mr. OTEPKA. He does not have to have a full field FBI investigation for an entry into the Foreign Service.

Mr. SOURWINE. Is a Foreign Service officer subjected to an FBI investigation normally in the lower echelons at all?

Mr. OTEPKA. Normally not.

Mr. SOURWINE. How are they investigated?

Mr. OTEPKA. They are investigated by the Office of Security, full background investigation.

Mr. SOURWINE. If the Office of Security is controlled and substantially staffed by Foreign Service personnel, then they are investigated by Foreign Service personnel. Isn't this true, of necessity?

Mr. OTEPKA. Yes. That could occur providing all of our domestic positions were filled by Foreign Service officers.

Mr. SOURWINE. Has the State Department ever contracted with the Civil Service Commission to conduct an investigation or part of an investigation in a security case involving a State Department officer or official?

Mr. OTEPKA. Not to my knowledge.

^{33a} State Department Security Hearings, pt. 4, pp. 453-454.

³⁴ EDITOR'S NOTE: Foreign Service officers are Presidential employees, so Mr. Jones' testimony here conflicts with the testimony of Mr. Otepka, cited above.

³⁵ EDITOR'S NOTE: See testimony of Otto Otepka immediately following, that both agencies do use this technique.

Mr. SOURWINE. Did the State Department ever contract with the Federal Bureau of Investigation to conduct an investigation or a part of an investigation with respect to a security case involving a State Department officer or official?

Mr. ОТЕРКА. Well, yes. Last year the Department contracted with the FBI because of backlogs that the Department had created and we needed the services of another Government agency to perform these investigations for us, routine personnel-type investigations.

Mr. SOURWINE. Does the Civil Service Commission ever use the technique of interrogation of the individual?

Mr. ОТЕРКА. Yes, sir.

Mr. SOURWINE. Does the FBI ever use this technique?

Mr. ОТЕРКА. The FBI would interrogate an applicant or an employee of the Department of State only upon the express permission from the Department of State. They do not normally interview.³⁶

It is to be noted that maintenance of high standards in security proceedings (particularly since all appraisals are made by the State Department's Security Office) involves less importantly the differing forms of investigation than it does the question of whether, as now seems the case in State, there is a tendency at top levels to minimize the security function. As Mr. McLeod told us, the most important factor in good security is motivation.

SECURITY OPERATION SERIOUSLY DAMAGED

The subcommittee heard evidence about action which tended to do serious damage to security operations. As discussed earlier in this report, reduction in force procedure was used, under the excuse of lack of funds, to abolish the jobs of 25 trained security men. Evidence was also adduced that at least one ranking political officer who, after being subpoenaed, testified before the subcommittee under oath about a fellow Foreign Service officer, thereafter had been brought home from a post in a class I embassy abroad and relegated to teaching in a school here.

Disturbing evidence also was heard respecting key officials in the State Department's chain of command being bypassed in matters going up to and down from the Deputy Under Secretary, the ranking State Department official dealing with security matters under the Secretary of State himself.

Testimony revealed that, on occasion, summaries [and even digests of summaries] rather than complete files were reviewed by ranking officers, and important personnel security decisions made without reference to available basic security material, or even to the security report and evaluation prepared in each instance by the Evaluation Division of the Office of Security.

Cases were cited to the subcommittee of vital information on movements and personalities in foreign countries, as collected by the FBI and CIA, failing to reach such officials as the Secretary of State and the President because of a breakdown in the transmission system at one of a number of points. Thus an attempt was made to defend one man from allegations of misconduct on the ground that he had merely followed established policy with respect to a certain country, when the fact is there was reason to believe that he did not forward to the Secretary, the President, and the National Security Council information they needed to set a sound policy.³⁷

³⁶ State Department Security Hearings, pt. 4, p. 459.

³⁷ The subcommittee took some testimony under a top secret classification which makes it unavailable for release.

Where John Stewart Service failed

Otto Otepka's testimony shed new light on the *John Stewart Service* case:

Mr. SOURWINE. Now, referring to the *John Stewart Service* case, how long were you at that job? How much time did it take you?

Mr. OTEPKA. Well, the case took approximately—that is, from the moment I commenced my review of the case until I sent it to the higher authorities for their final determination, approximately 8 or 10 months.

Mr. SOURWINE. You gave this your personal attention?

Mr. OTEPKA. I gave it a portion of my personal attention. I supervised the evaluation of the case as Deputy Director. I had the assistance of the evaluators.

Mr. SOURWINE. Let's get the background. Mr. Service had been separated from his position in the State Department by order of the Secretary of State?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. Secretary Dulles?

Mr. OTEPKA. Secretary——

Mr. SOURWINE. Herter?

Mr. OTEPKA. 1950, sir—1949–50—Mr. Acheson.

Mr. SOURWINE. And he had subsequently been reinstated by order of the Supreme Court of the United States?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. The State Department had issued a public statement that he would be given a position of nonsensitivity or a nonsensitive position?

Mr. OTEPKA. I read such a statement in the newspapers.

Mr. SOURWINE. You had nothing to do with the issuance of it?

Mr. OTEPKA. No, sir.

Mr. SOURWINE. You didn't see it in official channels?

Mr. OTEPKA. I never saw anything in official channels.

Mr. SOURWINE. All right. Now, he had, in fact, been reemployed.

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. And was he in fact placed in a nonsensitive position?

Mr. OTEPKA. Mr. Sourwine, all positions in the Department of State are sensitive unless they are specifically designated as nonsensitive by the Administrator of the Bureau of Security and Consular Affairs. I never saw the designation of the position occupied by Mr. Service as nonsensitive at any time.

Mr. SOURWINE. Well, during the time that you were evaluating his case, this was a full security case, I presume, a full security evaluation.

Mr. OTEPKA. Yes.

Mr. SOURWINE. What position did he occupy?

Mr. OTEPKA. He was assigned to the Office of Operating Facilities, as I understand, and he handled travel matters, travel—that is, all matters attendant to the travel of Department personnel to and from abroad.

Mr. SOURWINE. He was in that assignment during the entire time that you were evaluating or reevaluating his case?

Mr. OTEPKA. I believe he was, sir.

Mr. SOURWINE. Now, what conclusion did you reach with regard to Mr. Service? Did you clear him?

Mr. OTEPKA. There I must get into matters which relate to the differentiation between loyalty, security, and suitability. In my analysis and conclusions on the case, I made a specific recommendation both as to security and suitability. That recommendation was reviewed by the then Director of the Office of Security who concurred with one of my recommendations and disagreed with the other.

Mr. SOURWINE. Who was he?

Mr. OTEPKA. E. Tomlin Bailey. The case then, following in the normal course, channel of review, next went to the Administrator of the Bureau of Security and Consular Affairs. He in turn disagreed with all of us and he made a recommendation to the Deputy Under Secretary for Administration.

Mr. SOURWINE. Who was he?

Mr. OTEPKA. The Administrator——

Mr. SOURWINE. The Chief of the Bureau——

Mr. OTEPKA (continuing). Of the Bureau of Security and Consular Affairs was at that time Mr. Roderic O'Connor.

Mr. SOURWINE. And the individual to whom he made his recommendation?

Mr. OTEPKA. The Deputy Under Secretary for Administration was Mr. Loy Henderson.

Mr. SOURWINE. What did he do?

Mr. OTEPKA. Mr. Henderson cleared Mr. Service on all counts.

Mr. SOURWINE. Did that constitute a reversal of the recommendation made to him by Mr. O'Connor?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. Did Mr. O'Connor's recommendation constitute a reversal of the recommendation which had come up to him?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. In full?

Mr. OTEPKA. In full.

Mr. SOURWINE. Well, then, the recommendation which came up to him must have been to clear the man, is that right?

Mr. OTEPKA. My recommendation was that insofar as the security standards and principles were concerned, that I found that Mr. Service was not disloyal, that he was not a Communist, but that there were other factors relating to his judgment and conduct which I felt must be considered under the regulations pertaining to the performance and conduct of members of the Foreign Service of the United States. That is, as to whether or not Mr. Service in furnishing classified documents, which he admitted he furnished to an unauthorized person, did so with the intention of harming the United States or did so for other reasons. And this is why I had to make the differentiation. I felt that he was clearable on a security standard, but the other factors had to be adjudicated separately through the chain of command.

Mr. SOURWINE. And your superior reversed you in what respect?

Mr. OTEPKA. Well, he felt that Mr. Service was also clearable on the factors of judgment and suitability.

Mr. SOURWINE. And Mr. O'Connor reversed this in both respects and sent up a recommendation adverse on both security and suitability?

Mr. OTEPKA. Mr. O'Connor felt that the matter should be processed adversely under the provisions of Public Law 733.

Senator HRUSKA. That would have been in confirmation of your own conclusions, would it not, Mr. O'Connor's judgment?

Mr. OTEPKA. No, because as I said, my feeling was in that case that taking all factors into account, including passage of time, when the initial offense occurred, which was in 1945, that if any adverse action was in order in this case, and I felt it was, it should be taken not under the provisions of Public Law 733 but under the provisions of the regulations relating to the conduct and performance of Foreign Service personnel.

Mr. SOURWINE. All right. And the man at the top, then, reversed again and cleared in both instances.

Now, did each of these people who made a decision indicate his decision in writing?

Mr. OTEPKA. Certainly.

Mr. SOURWINE. And the reasons therefor?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. This was in accordance with the standard procedure in the Department?

Mr. OTEPKA. That is correct, sir.

Mr. SOURWINE. Do you know the position that Mr. Service is occupying at the present time?

Mr. OTEPKA. I believe he is still consul general in Liverpool, England.³⁸

THE TESTIMONY OF DEPUTY UNDER SECRETARY JONES

Mr. Roger Jones has served in responsible capacities in various Government departments for many years. He was Chairman of the Civil Service Commission prior to his assignment with the Department

³⁸ State Department Security Hearings, pt. 2, p. 199.

of State. As Deputy Under Secretary for Administration, Mr. Jones was responsible for the management and organization of the Department and of the Foreign Service. Decisions as to the loyalty, suitability, and general fitness of diplomatic and Foreign Service personnel were within the area of his responsibility as was the administration of security practices and procedures within the Department. He testified before the subcommittee March 8, 1962.

Mr. Jones described the chief elements involved in security cases as the suitability of the individual, his loyalty, and "factors that pertain to him as a security risk."

Suitability, he said, is determined by whether the applicant "is a person of good character, good moral standards, socially acceptable, proper education, background, and so on."

Just how "social acceptability" is a factor in determining "suitability" has never been explained to the committee. Mr. Jones did not elaborate on the point.

The witness also explained.

Security has to do with his reliability and his judgment and discretion in handling matters which are classified (secret).

Reliability and judgment are matters of suitability, not security. For example, indiscretion in handling classified material without intent to disclose to an unauthorized person would be handled under suitability rather than security. In this connection the Foreign Service sharply criticized the late Secretary Dulles for basing an "adverse security" finding re John Paton Davies on "judgment, discretion and reliability," contending that these are performance factors.

He added:

Loyalty, of course, has to do with associations in relationship to his belief in our forms of government.³⁹

This sounds like "guilt by association." The standard of "belief" is subjective, therefore unsatisfactory.

"The Presidential appointees in the Department of State, under the standard rule which has prevailed for a good many years, are investigated by the Federal Bureau of Investigation, under what is commonly known as a full field investigation," Mr. Jones said.

All Foreign Service officers are Presidential appointees, but they are *not* subject to FBI investigation until they get some kind of top job. Until then they are investigated by the State Department's Office of Security.

Mr. Jones continued:

Occasionally, when the workload is more than we can keep current, we will also contract with either the Civil Service Commission or the Federal Bureau of Investigation to conduct an investigation which they can appropriately conduct.

The committee learned that this was only done once last year, when a case was turned over to the FBI. It has never been done with the Civil Service Commission. A natural question presents itself at this point: If the workload permits a sharp cutback in the Office of Security, what then is the need for contracting anything?

This report has pointed out (p. 34) Mr. Jones' error when he said:

Neither of those agencies operates overseas. Neither of those agencies ever uses our technique of interrogation of the individual, so they are not in a position to do a complete investigation from our point of view.

³⁹ State Department Security Hearings, pt. 4, p. 380.

Mr. Jones improperly downgraded the Federal Bureau of Investigation very early in his testimony. Here is what he said:

Mr. JONES. * * * Occasionally, when the workload is more than we can keep current, we will also contract with either the Civil Service Commission or the Federal Bureau of Investigation to conduct an investigation which they can appropriately conduct.

Neither of those agencies operates overseas. Neither of those agencies ever uses our technique of interrogation of the individual, so they are not in a position to do a complete investigation from our point of view.⁴⁰

SOME OTHER CONFLICTS OF TESTIMONY

Identical questions answered differently by different witnesses always provide food for thought. For instance, the following, regarding the position of Deputy Director of the State Department's Office of Security:

(Mr. Jones was, at the time of his testimony, Deputy Under Secretary for Administration; Mr. Hipsley, one of the old-line security officers of the State Department and a former assistant to Scott McLeod as Administrator of the Bureau of Security and Consular Affairs, was at the time Chief of the Division of Physical Security in the State Department's Office of Security.)

Mr. SOURWINE. Until the recent reorganization of the Office of Security, the Office always had a Deputy Director who is a career civil servant; is that correct?

Mr. HIPSLEY. Yes, sir.

Mr. SOURWINE. In your opinion, did the fact that the Deputy Director was a career civil servant tend to give a measure of stability and continuity to the operations of the Office.

Mr. HIPSLEY. Yes, sir.

Mr. SOURWINE. That was a desirable thing?

Mr. HIPSLEY. I believe so; yes, sir.

* * * * *

Mr. Jones, Deputy Under Secretary for Administration, expressed this view:

Mr. SOURWINE. Mr. Jones, until the recent reorganization in the Office of Security, did the fact that the Deputy Director was a career civil servant tend to give a measure of stability to the continuity of the operations of that office?

Mr. JONES. I don't think so, sir; no.

Mr. SOURWINE. You have expressed yourself, I know, as believing it desirable to have a greater degree of continuity in the Office of Security than can be obtained through rotation of Foreign Service officers into the job of Director?

Mr. JONES. Generally, this is correct, sir.

Mr. SOURWINE. You do not think that having a career civil servant as an operating deputy did anything to lend stability and continuity to the operations of the Office?

Mr. JONES. It might have, Mr. Sourwine, had the requirements of the Office, as I assessed them after I came to the State Department in the light of the workload and in the light of the other needs, permitted him to be a full, operating deputy. They did not.⁴¹

Questioned by the chairman, Deputy Under Secretary Jones testified Mr. Wieland had not been promoted.

The CHAIRMAN. Should he have been promoted if he was pro-Castro?

Mr. JONES. Mr. Wieland has not been promoted, sir.⁴²

But Mr. Wieland told the committee he had been promoted to Foreign Service officer class 1 in the early part of 1959 (shortly after Castro came to power in Cuba).

⁴⁰ State Department Security Hearings, pt. 4, p. 380.

⁴¹ State Department Security Hearings, pt. 2, p. 167.

⁴² State Department Security Hearings, pt. 1, p. 32.

Jones and Boswell don't know about emergency cases

Neither Deputy Under Secretary Jones nor Mr. Boswell, Chief of the Office of Security, was able to answer a question about the State Department's rule or regulation controlling emergency appointments.

Mr. SOURWINE. Do you have any system in the Department to handle what you might call emergency appointments?

Mr. JONES. Yes. In the emergency appointment, we do what is popularly known as a name check. We check the individual against the records, the central records which are maintained in various places, the Civil Service Commission, the Federal Bureau of Investigation, the CIA, the committees here on the Hill, and so on.

Mr. SOURWINE. Are you saying that is done before the individual goes to work?

Mr. JONES. I could not give you a completely categorical answer on that, sir. I do not know in each instance, but I know that it is done just as fast as it is possible to do so.

Mr. SOURWINE. Do you not have some appointees occasionally that come into an emergency category that go right to work and then you set to work to clear them while they are working?

Mr. JONES. I think this is correct, but I do not happen to remember any such cases at the present time.

Mr. SOURWINE. Is there a criterion or are there criteria for the person who falls into such an emergency category?

Mr. JONES. Well, in the cases of which I know, Mr. Sourwine, the criteria have been chiefly the urgency of the job and the degree of expertise of the individual.

Mr. SOURWINE. I am trying to find out if you have some written rule or regulation to cover this, or whether it is a matter that is discretionary with the appointive authority.

Mr. JONES. I cannot answer this question definitively.

Mr. BOSWELL. Nor can I.

Mr. SOURWINE. You say you cannot, either?

Mr. BOSWELL. I don't know.

Mr. JONES. I don't recall anything in our manual, but that doesn't mean it is not here, Mr. Sourwine.⁴³

Mr. Hipsley's testimony regarding the existence of a rule or regulation governing waiver cases was in sharp contrast to the doubt evidenced by Mr. Jones and Mr. Boswell in their testimony on this point.

Mr. SOURWINE. Is there any written procedural directive in the Department for handling these waiver cases or emergency appointments?

Mr. HIPSLEY. Yes, sir.

Mr. SOURWINE. What is this system?

Mr. HIPSLEY. The Secretary must sign the waiver.

Mr. SOURWINE. That is all?

Mr. HIPSLEY. Or direct that it be done; yes. Nobody at a lower level can decide to appoint a person to the rolls without a clearance.

Mr. SOURWINE. Well, what are the requirements for an appointment to come into this emergency or waiver category?

Mr. HIPSLEY. One is the need for the man's services, in the national interest.

Mr. SOURWINE. Well, now, from the basis of what you have just said, I would think the only requirement is that the Secretary would sign the paper.

Mr. HIPSLEY. Yes, sir.

Mr. SOURWINE. Now, the Secretary does not initiate all these cases, obviously?

Mr. HIPSLEY. No, sir.

Mr. SOURWINE. If somebody farther down wants to appoint somebody on an emergency basis, if they can get the Secretary to sign the paper, that is all right, is it not?

Mr. HIPSLEY. Yes, sir.

Mr. SOURWINE. May an Under Secretary sign?

Mr. HIPSLEY. As I understand the procedures; no, sir.

Mr. SOURWINE. A Deputy Under Secretary may not sign?

Mr. HIPSLEY. Unless the Secretary has delegated the authority, no, sir.

Mr. SOURWINE. A waiver cannot be signed by an Under Secretary or a Deputy Under Secretary who would note, "By direction of the Secretary"?

⁴³ State Department Security Hearings, pt. 4, p. 385.

Mr. HIPSLEY. That could happen; yes, sir.

Mr. SOURWINE. That would be sufficient, would it not?

Mr. HIPSLEY. Yes, sir.

Mr. SOURWINE. Could an Assistant Secretary sign it and note on it "By direction of the Secretary"?

Mr. HIPSLEY. I would believe so.

Mr. SOURWINE. Could the Chief of the Bureau of Security and Consular Affairs sign a waiver and note "By direction of the Secretary"?

Mr. HIPSLEY. Yes, sir.

Mr. SOURWINE. Could you sign a waiver for a person in your department and note "By direction of the Secretary"?

Mr. HIPSLEY. I would if the Secretary told me to do it; yes, sir.

Mr. SOURWINE. You would have no compunctions about signing a waiver and noting that?

Mr. HIPSLEY. If the Secretary told me.

Mr. SOURWINE. The only authority would be your word that the Secretary told you to?

Mr. HIPSLEY. My word as an officer that he told me to do it; yes, sir; and fill out the necessary papers to write a 90-day waiver.

Mr. SOURWINE. When you told us earlier that there was a requirement that a waiver be approved by the Secretary, you did not mean approved in writing?

Mr. HIPSLEY. When I was in a position to see these things, it was approved in writing; yes, sir. But I could see no reason why the Secretary of State could not tell Mr. Smith, whoever it might be, all right, go ahead; you sign this man up and I will approve it.

Mr. SOURWINE. If he is going to run the Department, he can do anything he wants, can he not?

Mr. HIPSLEY. Yes, sir; within the powers reserved to him as Secretary of State. He is the Department of State.

Mr. SOURWINE. Do you know of cases where waivers have been approved by persons other than the Secretary?

Mr. HIPSLEY. When you say "the Secretary," this would include the Acting Secretary in the absence of the Secretary?

Mr. SOURWINE. Yes.

Mr. HIPSLEY. No, sir; I do not.⁴⁴

Legal Adviser Chayes confessed unfamiliarity with statutory requirements respecting investigation for loyalty and suitability:

Mr. SOURWINE. Mr. Chayes, in addition to Executive Order 10450 with regard to the investigation of appointees to positions in the Department of State, are there any statutory requirements respecting investigation for loyalty and suitability?

Mr. CHAYES. I assume there are, but I have not myself examined any. I saw the reference to a particular one in Mr. Lowenfeld's testimony.

Mr. SOURWINE. Were you familiar with that particular one?

Mr. CHAYES. I had not myself considered the language of it. In the one case in which we were consulted, the consultation—the contact was made with me directly. I referred the question to Mr. Lowenfeld. When he came back to me with the conclusion that a full field investigation was required, I simply approved that without further consideration, since it did not seem to me we would be doing anything that was likely to lead to trouble or criticism if we followed that path.⁴⁵

Like Mr. Jones and Mr. Chayes, Mr. Andreas Lowenfeld professed himself unfamiliar with statutory requirements respecting investigations for loyalty and suitability. But he testified he had once given an opinion involving one of these statutes.

Mr. SOURWINE. In addition to Executive Order 10450 with regard to the investigation of appointees to positions in the Department of State, are there any statutory requirements respecting investigations for loyalty and suitability?

⁴⁴ State Department Security Hearings, pt. 4, pp. 417-418.

⁴⁵ State Department Security Hearings, pt. 3, pp. 374, 375.

Mr. LOWENFELD. I am afraid I am not really prepared to answer that question. I have very little to do with that——

Mr. SOURWINE. Are you familiar with the requirements respecting investigations for loyalty and suitability under WHO, ILO, and arms control and disarmament?

Mr. LOWENFELD. Not really. Certainly not enough to testify.

Mr. SOURWINE. Are you familiar with the requirement of the U.S. Information and Educational Exchange Act with respect to the loyalty check on personnel?

Mr. LOWENFELD. Not in any detail, no, sir. I do know that—of some of the references that you make. But only in a casual and not in a professional way.

Mr. SOURWINE. You have not been asked to make any decision or give any opinion in this regard with respect to appointees in the State Department?

Mr. LOWENFELD. No, sir.

Mr. SOURWINE. I am referring specifically now to section 104(f) of the Mutual Education and Cultural Exchange Act of 1961, 75 Stat. 527, which supplemented the U.S. Information and Educational Exchange Act of 1948.

I will refer now to the provision of section 104(f).

“All persons employed or assigned duties under this act shall be investigated with respect to loyalty and suitability in accordance with standards and procedures established by the President.”

You have not been asked for a construction of that language?

Mr. LOWENFELD. I think I was once; yes.

Mr. SOURWINE. Recently?

Mr. LOWENFELD. I remember—I did not write a formal opinion. I remember being asked whether someone on an advisory council would have to come under that provision, and I said, “Yes, he would.” It was really not much more than a phone call.⁴⁶

Contrasting answers of Mr. William Wieland and Mr. Scott McLeod, former Administrator of the Bureau of Security and Consular Affairs, with respect to the question of homosexuality in the Department of State, are worthy of consideration.

Here is an excerpt from Mr. Wieland's testimony:

Mr. SOURWINE. Mr. Wieland, as a Government administrator, are you aware that sexual deviation, and especially homosexuality among employees, present a very special security problem?

Mr. WIELAND. Yes, sir.

Mr. SOURWINE. Do you know whether there is such a problem in our State Department?

Mr. WIELAND. No, sir.

Mr. SOURWINE. You do not know?

Mr. WIELAND. No, sir.

Mr. SOURWINE. Have you ever had to deal with this problem in any way?

Mr. WIELAND. No, sir.⁴⁷

Mr. McLeod's testimony on the same subject follows:

Mr. SOURWINE. Are you aware, Mr. McLeod, that homosexuality is a serious security problem?

Mr. McLEOD. Yes, sir.

Mr. SOURWINE. Do you know if this problem exists in the State Department?

Mr. McLEOD. It certainly does.

Mr. SOURWINE. You have had to deal with it in one case, as you mentioned, at the level of Ambassador?

Mr. McLEOD. Yes, sir.

Mr. SOURWINE. You had to deal with it in a number of other cases?

Mr. McLEOD. A great many others.

Mr. SOURWINE. What would you say respecting the veracity of a man who had been a Foreign Service officer for upward of 10 years and who was director of an area desk who would testify that he did not know if homosexuality was a problem in the Department and had never had to deal with it himself?

Mr. McLEOD. It is very nearly incredible. I know that a great many of these officers put their heads in the sand like an ostrich and pretend the problem does

⁴⁶ State Department Security Hearings, pt. 4, pp. 481-482.

⁴⁷ State Department Security Hearings, pt. 5, p. 609.

not exist, but how they can actually be unaware of it is beyond my comprehension.

Mr. SOURWINE. You are saying, in other words, that the problem is so serious and so continuing in the State Department that any person at that level in the Department should be aware of it?

Mr. McLEOD. Let me put it this way:

I think the State Department and the armed services are natural targets for homos. I went into this thing quite a bit when I was in the Department, and I concluded that they have a problem which is somewhat different than those of us who do not have the tendency, and that is the economic security that attends their being discovered in private life.

You probably have known, as I have, within a community where suddenly the gossip is around that the interior decorator, or whoever he is, is a homosexual.

Mr. SOURWINE. You mean the loss of economic security that attends the discovery?

Mr. McLEOD. That is right.

Then whatever he has been doing, he has to leave the community and go somewhere else.

Now, these Government organizations that have a regular policy of personnel rotation are natural targets for these people because it gives them 4 years or 3 years or a certain period in a community when they can normally expect to escape detection, and then in the course of their regular personnel policy they are moved to another community, and they get to start over again, and this is the answer to their problem.⁴⁸

So I think they gravitate toward these organizations, and either they are always going to be a problem—and this is not exclusively true of the American service, by any means. It is true of these services in any country. And I would like to just say this.

The official view that a homosexual is a security risk because he is subject to blackmail is, of course, valid, but I think he is a much more dangerous person because of the kind of mind he has, which it seems to me to be what I would characterize as a soft mind.

He constitutionally does not wish to deal with tough problems. He does not want to make tough decisions. He wants to skate along, take the easy way, go with the tide, not enter into a hard, tough opposition when he sees that his country's welfare is involved.

And the real danger to the United States seems to me to come from the fact that these people, when they get into decisionmaking jobs, do not have the approach to it that I think is the most beneficial for the country, and this has not got anything to do with security, in my judgment. This has got to do with the kind of policies that are involved.

Mr. SOURWINE. It is a fitness question?

Mr. McLEOD. That is right.

Mr. SOURWINE. You would say a homosexual is unfit for a responsible Government job?

Mr. McLEOD. In my judgment—

Mr. SOURWINE. For a decisionmaking job?

Mr. McLEOD. In my judgment, that is true beyond question, although I realize that there is a good deal of argument about it.

These people are inclined to be glib; they are inclined to be brilliant and great men for telling you both sides of the problem; but when you try to pin them down as to what they recommend and what they advocate be done, why, they are inclined to pass it on to somebody else.

Mr. SOURWINE. You are aware, are you not, that the appellation homosexual is more in the nature of a genus than a description of a particular breed: that is, a homosexual may or may not be a pervert; he may or may not have a relatively normal life.

Mr. McLEOD. I understand that.

Mr. SOURWINE. There are different kinds of homosexuals.

Mr. McLEOD. That is right.

In some people it is completely latent insofar as their relations with members of the same sex are concerned. Many homosexuals do not even have a desire to have sexual relations with a member of the same sex, but this thing is latent and it gives rise to this frame of mind that I have just described.

Mr. SOURWINE. You are aware also that the British are taking more and more an attitude of completely condoning homosexuality, regarding it simply as a sickness?

Mr. McLEOD. I am somewhat amused by our British brothers in this matter because while they are publicly—at least some segments of the population are

⁴⁸ State Department Security Hearings, pt. 4, pp. 441, 442.

publicly—advocating that these people be recognized as sick and that they not be subject to criminal prosecution, I am somewhat amused to find that their security regulations are even more stringent than ours.

Mr. SOURWINE. This is true.

Mr. McLEOD. This has been quite a recent development, but they are apparently aware, from bitter experience, just how this problem does affect their security arrangements.

The CHAIRMAN. Well, is it true that they try to help each other when they get into a Government department?

Mr. McLEOD. I do not think there is any question of that, Senator.

The CHAIRMAN. They try to protect each other?

Mr. McLEOD. I think they are inclined to bring each other along so that they get the employment in the first place, and then they give each other a hand up, as far as promotions and assignments are concerned.

The CHAIRMAN. Do you not think that that is one reason that there are so many of them in the State Department?

Mr. McLEOD. Yes. I would not agree that there are so many left. I mean I do not recall the statistics, but it seems to me that beginning about 1947, when the Department first began to attack this problem, and up to, I think, 1954 or 1955, there was something over 100 a year identified and dismissed in one way or another; I think the thing fell off then statistically.

I am not aware of what the statistics are since 1957, but it is not a problem that has been solved, by any means, sir.⁴⁹

Deputy Under Secretary Jones' letter of November 17, 1961, to Senator Mundt was inaccurate or untrue in several respects, according to the testimony of Mr. Otepka, whose record was the principal subject of that letter:

Mr. SOURWINE. Mr. Otepka, I show you a copy of a letter addressed to Senator Mundt and signed by Deputy Under Secretary Roger W. Jones, under date of November 17, 1961. This letter refers to you.

* * * * *

Mr. SOURWINE. Now, this letter recites, Mr. Otepka, that you have outstanding qualifications in the field of personnel security and you were made Deputy Director of the Office of Security in April 1957. The letter then goes on to say that for at least half the time between April 1957 and November 1961 you were assigned to special duties of a personnel security nature considered so important that you were, in effect, detached from your duties as Deputy Director of the Security Division.

Now, half the time between April 1957 and November 1961 is more than 2 years and 3 months. Is it true that for more than 2 years and 3 months, since April 1957 and up until November 17, 1961, you were, in effect, detached from your duties as Deputy Director?

Mr. OTEPKA. No, sir. That would not be true.

Mr. SOURWINE. This letter says that for the past 2 years, that is, the 2 years immediately preceding November 17, 1961, you were devoting your time almost exclusively to two major undertakings involving personnel security is this correct?

Mr. OTEPKA. No, sir; not exclusively.

Mr. SOURWINE. Almost exclusively?

Mr. OTEPKA. Not even almost exclusively.

Mr. SOURWINE. Can you identify the two major undertakings involving personnel security which are referred to?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. What are they?

Mr. OTEPKA. I was assigned the responsibility for reviewing and readjudicating the case of John Stewart Service after Mr. Service had been restored to duty by an order of the Supreme Court. At the time I received the assignment, I was already in the position of Deputy Director. Now, that case was a very involved case.

Mr. SOURWINE. We will get to that case in just a minute.

What was the other major undertaking?

Mr. OTEPKA. That other undertaking was, I was assigned the responsibility for reviewing and adjudicating the case of William Arthur Wieland.

* * * * *

⁴⁹ State Department Security Hearings, pt. 4, pp. 441-442.

Mr. SOURWINE. * * * Is it true that because of your assignment to these cases you didn't have time to perform your routine duties as Deputy Director?

Mr. OTEPKA. I feel that I still was able to perform the responsibilities of Deputy Director, notwithstanding the fact that I had these collateral assignments.

Mr. SOURWINE. Would you say that you were a functioning Deputy Director during all the time that you held that position?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. Did you act as Acting Director at any time during the 2 years preceding November 17, 1961?

Mr. OTEPKA. I did, sir.

Mr. SOURWINE. On how many occasions?

Mr. OTEPKA. Well, the longest occasion was shortly after the entrance of Mr. Boswell on duty as Director. He took a trip which took him practically around the world visiting our security posts abroad, and something like 2½ months I was Acting Director. And that specifically is mentioned in my efficiency reports.

Mr. SOURWINE. Would you feel that you could tell the committee during the entire time that you were nominally Deputy Director you were, in fact, a functioning Deputy Director?

Mr. OTEPKA. I think I was in fact a functioning Deputy Director.

Mr. SOURWINE. Do you think you performed, satisfactorily, all the duties of that job in addition to these other special assignments?

Mr. OTEPKA. I do, sir.⁵⁰

Senator Hruska questioned Mr. Otepka further on this point:

Senator HRUSKA. Mr. Otepka, just one other question on the letter to Senator Mundt from Roger Jones. I read the last sentence in paragraph 2:

"For the past year he," meaning you, "has devoted his time almost exclusively to two major undertakings involving personnel security."

This letter is dated November 17, 1961. It was in that period, was it not, that for 2½ months you served as Acting Director on the occasion when Mr. Boswell was on his around-the-world trip? Is that correct?

Mr. OTEPKA. No, sir. It was in 1959 that I served as Acting Director during the period of Mr. Boswell's extended absence.

Senator HRUSKA. Were there any similar occasions during November 1960 to November 1961 when you acted as Acting Director?

Mr. OTEPKA. There were similar occasions, but they weren't as extended. For example, Mr. Boswell, of course, took annual leave. He would make various trips through our field offices in the United States and during these times I served as Acting Director.

Senator HRUSKA. These periods of annual leave would be how long?

Mr. OTEPKA. Approximately 2 weeks.

Senator HRUSKA. At various times?

Mr. OTEPKA. Yes, sir.

Senator HRUSKA. And in addition to that, during the period November 1960-61 you also performed other duties as Deputy Director, did you?

Mr. OTEPKA. Yes, I did, sir.⁵¹

STATE DEPARTMENT CHECKS ON CONGRESSIONAL CONTACTS

An effort by the State Department to monitor all contacts of departmental employees with Members of Congress or members of congressional staffs was disclosed during our hearings, but was very speedily dropped after the disclosure.

The following excerpt from our record explains what happened: ⁵²

Mr. SOURWINE. The committee has been informed, Mr. Hipsley, that Under Secretary Dutton has sent instructions to certain personnel in the State Department with regard to their contacts with Members of Congress and the House and Senate and their staffs. Have you been so instructed?

Mr. HIPSLEY. I received an instruction from Mr. Boswell.

Mr. SOURWINE. Not from Dutton?

⁵⁰ State Department Security Hearings, pt. 2, pp. 195, 196.

⁵¹ State Department Security Hearings, pt. 2, pp. 200, 201.

⁵² EDITOR'S NOTE.—This testimony was given on Mar. 15, 1962, pt. 4, p. 427.

Mr. HIPSLEY. No, sir. This quotes Mr. Cieplinski, asking that a report be made in this connection.

Mr. SOURWINE. A report be made to whom?

Mr. HIPSLEY. We have a card form that we send to the Director.

Mr. SOURWINE. To Mr. Cieplinski?

Mr. HIPSLEY. To our Director, whom I assume sends it to Mr. Cieplinski.

Mr. SOURWINE. You send it to Mr. Boswell?

Mr. HIPSLEY. Yes, sir.

Mr. SOURWINE. A report on what?

Mr. HIPSLEY. Contacts with congressional Members or staff personnel.

Mr. SOURWINE. You mean official contacts?

Mr. HIPSLEY. It does not say official contacts, sir.

Mr. SOURWINE. Do you have a copy of this instruction?

Mr. HIPSLEY. I have one in my desk; yes, sir.

Mr. SOURWINE. Can you furnish us with one?

Mr. HIPSLEY. I will be happy to.

Mr. SOURWINE. Any objection, Mr. Leahy?

Mr. LEAHY. No.

Senator JOHNSTON. What is the object of that?

Mr. HIPSLEY. I do not know, sir.

Mr. SOURWINE. Your understanding is that it is the requirement that you report upstairs on any contact of any nature, social or otherwise, during or after office hours or any other time, with any Member of Congress or any member of the staff of Congress?

Mr. HIPSLEY. That is how I would interpret it.

Mr. SOURWINE. Does this just affect you?

Mr. HIPSLEY. No, sir.

Mr. SOURWINE. Does it affect everybody who works with you?

Mr. HIPSLEY. Yes, sir.

Mr. SOURWINE. Down to the last stenographer?

Mr. HIPSLEY. Yes, sir. I assume so.

Senator SCOTT. Could we see the form?

Mr. SOURWINE. He does not have a copy, but he will furnish us with one. A newspaper told me about this yesterday.

Mr. HIPSLEY. I will have to plead guilty here; I only read it briefly, sir, and put it in my work box.

Mr. SOURWINE. I do not want to put you on the spot, but does that not impress you as rather an infringement of a man's privacy and his constitutional right of freedom of association?

Mr. HIPSLEY. Since you put me on the spot, I will answer it. Yes, I think it does.

Senator SCOTT. Would it include the obligations to report to someone in the State Department the testimony you have given here?

Mr. HIPSLEY. I would not interpret it that way; no, sir.

Mr. SOURWINE. Mr. Leahy, if the Senator and the Chair will permit—I think we would like to ask—I could not ask the witness because he could not have authority to get—if we could have copies of any memorandums on which this memorandum he speaks about was based—I understand you got one from Mr. Boswell which referred to Mr. Cieplinski.

Mr. HIPSLEY. Yes, sir.

Mr. SOURWINE. The tip I had was there was one from Mr. Dutton. If we could get the chain—could we get all those memos?

Mr. HIPSLEY. If I could clarify it, sir, I would like to say this memorandum I referred to is Mr. Boswell's following his superior's instructions.

Mr. SOURWINE. That is following Mr. Cieplinski's instructions?

Mr. HIPSLEY. Yes, sir.

Senator JOHNSTON. Do you not think we should have a copy of the chain coming down?

Mr. SOURWINE. If we could get that, if that is the order, sir.

Senator JOHNSTON. That is ordered; if he can get it.

Mr. SOURWINE. May this become part of the record?

Senator JOHNSTON. It will be made a part of the record.

(The document referred to reads as follows:)

STATE DEPARTMENT SECURITY

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DEPARTMENT OF STATE,
ASSISTANT SECRETARY FOR CONGRESSIONAL RELATIONS,
February 19, 1962.

Memorandum for:

The Under Secretary
Under Secretary McGhee
O—Mr. Jones
G—Mr. Johnson
D—Mr. Foster
S/P—Mr. Rostow
All Assistant Secretaries
L—Mr. Chayes
INR—Mr. Hilsman
SCA—Mr. Cieplinski

A central file of congressional contacts by officers of the Department is being organized in order to bring together and more fully utilize information individually obtained concerning members of the Congress.

Enclosed is a series of cards which I will appreciate being made available to all of the principal members of your office or bureau (including all Deputy Assistant Secretaries, Directors, and officers, as well as such other personnel as you may wish) for them to fill out and forward to me concerning any meeting, telephone call, or social contact they have with members of the Congress or congressional staffs. If a more extensive memorandum for the file is prepared, that should be forwarded to H in lieu of a card. These cards are being provided, however, in order to facilitate at least a brief notation being made of all congressional contacts. Compilation of these cards will also provide an indication of which offices and bureaus in the Department need to undertake more frequent meetings with members of the Congress.

In order to keep the cards from becoming an undue burden on your officers, they may be filled out in pen (or typewriter) and forwarded either singly or weekly, or on whatever basis you desire.

FREDERICK G. DUTTON.

FEBRUARY 27, 1962.

To: Messrs. Jessop, DeCapua, Jackson, Chappelle, Otepka, Hipsley, Iams, Laugel.

From: SY—William O. Boswell.

Subject: Central file of congressional contacts by officers of the Department.

The following memorandum for all office directors from Mr. Michel Cieplinski, Acting Administrator, SCA, dated February 26, 1962 has been received:

"A central file of congressional contacts by officers of the Department is being organized by the Assistant Secretary for Congressional Relations in order to bring together and more fully utilize information individually obtained concerning Members of the Congress.

"I have been requested by Mr. Dutton to make the enclosed cards available to all principal members of this Bureau for them to fill out concerning any meeting, telephone call, or social contact they may have with Members of the Congress or congressional staffs. If a more extensive memorandum for the file is prepared, that should be used in lieu of a card.

"These cards may be filled out in pen or typewriter and forwarded to my office each Monday to cover the contacts of the previous week."

Attached is a sample card which you should maintain in order to prepare a card for each contact had by you or members of your staff with Members of the Congress. These cards should be forwarded to my office before the close of business each Friday in order that I may forward them to SCA each Monday.

MARCH 22, 1962.

HON. THOMAS J. DODD,
*Chairman, Subcommittee on Internal Security,
Committee on the Judiciary, U.S. Senate.*

DEAR MR. CHAIRMAN: I understand that at the meeting of the Subcommittee on Internal Security on March 14, while Senator Johnston was presiding, an officer of the Department of State, Elmer Hipsley, was questioned as to whether he had been asked to provide departmental reports on his contacts with Members of the Congress.

As Assistant Secretary for Congressional Relations, I initiated a request for brief reports on contacts by officers of the Department with Members of the Congress, and believe that I should therefore respond directly to take responsibility on this matter. The request was made by me on February 19. A copy of the memorandum that was distributed is attached, along with the kind of card on which very brief notations could be made summarizing the congressional comments. This step was taken to bring together information on informal and formal congressional inquiries and other matters, in order to provide more adequate service by the Department for Members of the Congress and to increase the Department's understanding of matters of current concern to individual Congressmen. I have also found that requests for information informally made available to a particular office in the State Department are often relevant in other bureaus here and that better service could be provided by getting the inquiries centrally considered. The space on the cards for any comments on the trade legislation and U.N. bond legislation was based on the fact that those were two major current pieces of legislation most often likely to be raised this spring. Prior to my memorandum being raised in the meeting of the subcommittee, I learned of the possible objection to it by a Member of the House; and since my purpose here is to strengthen the Department's relations with the Congress, not interpose any difficulties, the procedure was discontinued, and that action confirmed by the attached memorandum of March 14.

I will appreciate your letting me know if I may provide further information on this matter.

Sincerely yours,

FREDERICK G. DUTTON, *Assistant Secretary.*

Enclosures as stated.

DEPARTMENT OF STATE,
ASSISTANT SECRETARY FOR CONGRESSIONAL RELATIONS,
March 14, 1962.

Memorandum for—

The Acting Secretary
Under Secretary McGhee
O—Mr. Jones
G—Mr. Johnson
D—Mr. Foster
S/P—Mr. Rostow
All Assistant Secretaries
L—Mr. Chayes
INR—Mr. Hilsman
SCA—Mr. Cieplinski

Re February 19 memorandum on congressional file cards.

The central file of congressional contacts by officers of the Department has been discontinued. The cards provided to you for that purpose are no longer being used.

I am still most anxious to encourage prompt and accurate replies to informal as well as formal congressional requests for information and other assistance and we shall work closely with your office for that purpose.

FREDERICK G. DUTTON.⁸³

⁸³ State Department Security Hearings, pt. 4, pp. 427-429.

THE NEW PASSPORT REGULATIONS

It has been more than a decade since Congress passed the Internal Security Act of 1950. It was clearly the intent of Congress then, that one of the means our Government should use to protect the security of the United States against the menace of the Communist conspiracy was the denial of U.S. passports to Communists. The act in plain terms prohibited the issuance of passports to members of any Communist organization registered or required to register with the Subversive Activities Control Board.

After almost 11 years of litigation, the U.S. Supreme Court, on October 10, 1961, entered its final order in the case of the *Communist Party of the United States v. Subversive Activities Control Board*. The Court upheld the constitutionality of the Subversive Activities Control Board's order requiring the Communist Party to register as a Communist-action organization. When this action became final on October 20, 1961, it immediately became unlawful, under section 6 of the act, for a member of the Communist Party, with knowledge or notice of the final order, to apply for a passport, or the renewal of a passport, issued under the authority of the United States, or to use or attempt to use a passport. Under section 6(b) of the act it became unlawful for any officer or employee of the United States to issue or renew a passport for any individual, knowing or having reason to believe that such individual is a member of the Communist Party. At long last, it appeared the United States had a litigation-tested statute providing a method by which travel of Communist Party members could be curtailed.

However, on January 12, 1962, the Department of State announced the promulgation of revised passport regulations^{53a} dealing with denial of passports to members of Communist organizations registered or required to be registered under the Subversive Activities Control Act of 1950. And although it was announced that the regulations were designed to implement the Internal Security Act in light of the recent decision of the Supreme Court in the *Communist Party* case, the real effect of the regulations was to assure the issuance of passports to many, if not most, Communist applicants.

The particular portion of the act, which the regulations are claimed to implement, is as follows:

TITLE 50, UNITED STATES CODE

§ 785. DENIAL OF PASSPORTS TO MEMBERS OF COMMUNIST ORGANIZATIONS.

(a) When a Communist organization as defined in paragraph (5) of section 782 of this title is registered, or there is in effect a final order of the Board requiring such organization to register, it shall be unlawful for any member of such organization, with knowledge or notice that such organization is so registered or that such order has become final—

- (1) to make application for a passport, or the renewal of a passport, to be issued or renewed by or under the authority of the United States; or
- (2) to use or attempt to use any such passport.

^{53a} State Department Security Hearings, pt. 3, p. 249.

(b) When an organization is registered, or there is in effect a final order of the Board requiring an organization to register, as a Communist-action organization, it shall be unlawful for any officer or employee of the United States to issue a passport to, or renew the passport of, any individual knowing or having reason to believe that such individual is a member of such organization.

The new passport regulations were published in the Federal Register on January 12, 1962, and went into effect immediately under "emergency" procedure. The regulations start out by paraphrasing the act, providing that a passport shall not be issued to or renewed for any individual who, the issuing officer knows or has reason to believe, is a member of a Communist organization registered or required to be registered under the Subversive Activities Control Act. But the regulations go on to provide that any person to whom a passport or renewal of a passport has been denied, or whose passport has been revoked, shall have the right to appeal from an adverse decision of the Passport Office to a Board of Passport Appeals appointed by the Secretary of State. (This makes the granting or refusal of a passport, in legal contemplation, an adjudication rather than an exercise of discretion.) In such hearings, the regulations continue, the applicant shall be accorded the right to appear, to be represented by counsel, to present evidence, to be informed of the evidence against him and the source of such evidence, and *to confront and cross-examine adverse witnesses*. The decision to deny a passport, the regulations then declare, *shall be based only on evidence which is made available to the applicant*. [Emphasis supplied.]

The grant of a right of confrontation means that no information received through an undercover operator or informant of the Federal Bureau of Investigation can be used in a passport case, against an applicant either for a new passport or for a passport renewal, unless the agent or informant is "surfaced" and produced at the hearing to testify in person. Since, in most instances, the national interest requires that the identity and operations of undercover agents and informers be protected, and their cover preserved, so that they may continue as sources of information, this provision alone necessarily will result in the granting of a great many passports which otherwise might be refused.

The requirement that a decision to deny a passport shall be based only on evidence which is made available to the applicant means that no confidential information of any nature may be considered by the Secretary of State or any of his subordinates, or used in any passport case, unless it is deemed desirable and permissible to destroy the confidential nature of the information and make it public.

These are rights and procedures not granted or prescribed in passport cases by any court decision, not required by any law, and the granting of which, by the unilateral action of the Department of State, immediately created a situation in which the denial of a passport to any Communist applicant may prove extremely difficult. Furthermore, the provision with regard to basing denials only on evidence which may be made available to the applicant (or used at the hearing) flies directly in the face of the congressional mandate as expressed in the Subversive Activities Control Act.

The act itself makes no mention of confrontation or cross-examination of adverse witnesses. The act clearly and explicitly states that it shall be unlawful for a member of a Communist organization, with knowledge it is a Communist organization, to apply for or use a

passport; and that it shall be unlawful for an officer or employee of the United States to issue or renew a passport for any individual, knowing or having reason to believe that such person is a member of a Communist organization.

The Internal Security Subcommittee of the Senate was notified of the impending regulations by being supplied with a confidential memorandum from the Office of the Secretary of State under date of January 10, 1962. The memorandum reached the offices of the subcommittee shortly before noon on the following day, January 11, and copies were distributed to committee members within 2 hours. But the regulations were already in type at the Federal Register. The subcommittee had no opportunity to study the regulations or make effective comment on them before they were published and made immediately effective. Nor were the subcommittee's views on the proposed regulations sought by the Department of State prior to implementation.

Mr. Lowenfeld of the State Department's legal office gave this testimony in explaining the State Department's effort to get the new passport regulations made effective in a hurry.

Mr. SOURWINE. Why were you doing it so fast? What was the hurry?

Mr. LOWENFELD. Well, of course, there are a couple of reasons. The principal one was that we had a hiatus of 6 or 7 weeks already. Let's see. The Supreme Court denial—the denial for rehearing was October 9, I believe. The board published its order requiring registration on the 21st of October, to be effective 30 days thereafter. So that as of November 20, there was now a final order of the Court, and the statute was in effect. We had a couple of applications. You mentioned the name of one of the last hearing—the *Duimovich* case.

Mr. SOURWINE. Are you telling us the *Duimovich* case was pending prior to the 12th of January?

Mr. LOWENFELD. I do not know whether it was formally pending.

Mr. SOURWINE. Do you know when it was received?

Mr. LOWENFELD. It seems to me—you would have to check with Miss Knight to be sure. I have the feeling——

Mr. SOURWINE. You brought up the case.

Mr. LOWENFELD. Well, yes, I have the feeling that I had heard about the matter. It may have been a lawyer's inquiry rather than a formal application. But I had heard about the case before; yes, sir.

Mr. SOURWINE. And you say this case was pending, and that is why you were hurrying this thing?

Mr. LOWENFELD. If I may correct that. I am not sure—I am under oath—whether the word "pending" is right, because "pending" means there was a formal application.

Mr. SOURWINE. Do you know whether any applications were pending?

Mr. LOWENFELD. I had understood there were. And I had understood, as a matter of fact, that Miss Knight had originally been the one who had said we have got to move fast. Now——

Mr. SOURWINE. When did she say that?

Mr. LOWENFELD. We had a series of meetings with her back in December. She had brought an entire—she wanted to rewrite the entire passport regulations, not just the ones——

Mr. SOURWINE. She had moved for action long before December, had she not?

Mr. LOWENFELD. Well, that I do not—I understand there had been much earlier—under the last administration, there had been a move.

Mr. SOURWINE. But not under you. You had nothing to do with it.

Mr. LOWENFELD. Well, the first I had heard about it was about the middle of December, when Mr. Chayes called me in and said, "I want to watch this, and you watch this for me." It may have been—I have not read her testimony, so I do not want to appear to controvert her. She may well be right. I do not know.

Mr. SOURWINE. Well, let us just—we have some chronology here. It indicates that on June 12, 1961, Passport sent a memorandum to the then Acting Legal Adviser outlining pertinent portions, especially section 6, and requesting views about action to be taken with respect to pending applications, members who

have passports, actions and procedures which should be followed when the law became operative.

Mr. LOWENFELD. Yes.

Mr. SOURWINE. It seems like a prudent thing to do—that was not too far in advance to begin to ask about the matter.

Mr. LOWENFELD. I agree with that. That is before I was in the Government. But that was, if I am not mistaken, just before the stay was granted by Mr. Justice Frankfurter. And I gather what happened was that the things were sort of let slide a little bit, as the pressure was off.

Mr. SOURWINE. That is right. There was another memorandum of June 22, 1961, from Passport advising that when the law became effective Passport would be prohibited, by penal sanctions, to issue passports to Communist Party members.

Then on October 10, the day after the petition for rehearing was dismissed, Passport issued a memorandum within its own jurisdiction to all personnel alerting them to the fact that passport renewal applications must be intercepted prior to any issuance or renewal as the case may be, and all cases to be referred to the legal division of the Passport Office for handling.

On October 24, Passport sent a letter to Mr. Yeagley, asking for his views about the withdrawal of passports from Communist Party members.

Mr. LOWENFELD. That is right. And that letter was not answered; that is the letter—although that was not drafted in our office—that letter was not answered until the 5th of January, although there were conversations in between.

Mr. SOURWINE. Yes. It was answered the same date as the other letter. And that has caused some confusion. You talk about the Yeagley letter of January 5—there were two.

Mr. LOWENFELD. That is correct.

Mr. SOURWINE. One was the letter answering this letter from Mr. Hickey, I believe.

Mr. LOWENFELD. Well, they really both are. But they are separate questions. That was one of the decisions that was reached at the meeting at Justice—to make them two separate letters.

Mr. SOURWINE. On November 1, Passport requested Immigration and Naturalization to withdraw the passport of Elizabeth Gurley Flynn.

On November 3, 2 days later, Mr. Chayes and Mr. Yingling, of Legal, advised Passport that Passport had no authority to withdraw the Flynn passport, it was a matter solely for the Department of Justice.

You had no participation in that.

Mr. LOWENFELD. I could not—I am not sure whether I did or not. I knew about it. I remember it came up on one Saturday. I do not think I participated in it. But I am not certain.

Mr. SOURWINE. November 30: Passport sent a memorandum to Mr. Chayes transmitting two lists of persons who appeared to be within the purview of title 50, United States Code, section 785.

December 1: Passport sent a memorandum to Mr. Chayes recommending the withdrawal of passports issued to individuals on the national levels of the Communist Party leaderships.

December 7: They sent a memorandum to Mr. Chayes recommending that a statement be placed on all passport application forms, registration forms, and agency notices with respect to the law.

Mr. LOWENFELD. I think that was the first time I became active in it. I think Miss Knight brought that memorandum around personally and I was with Mr. Chayes, and we discussed that. We made small changes in the wording. And then we agreed to that.⁵⁴

Mr. Lowenfeld pursued this argument in explaining certain passages of the letter he had originally drafted, which was finally transmitted to Senator Dodd over the signature of Assistant Secretary Dutton.

Mr. SOURWINE. Well, I think that clears up the question of when you first learned about the matter.

It does not leave the record absolutely clear as to whether you have any knowledge of any passport applications that were pending up to the time of the new regulations.

Mr. LOWENFELD. Well, I am not entirely certain on that. I just mention that as one of the considerations. My instructions were—and I think you perhaps should ask Mr. Chayes—my instructions were once the draft had been agreed on, and that was done at a meeting on Tuesday, the 9th, in the Secretary's Office, I was told "get them published as soon as you can."

⁵⁴ State Department Security Hearings, pt. 3, p. 337.

Mr. SOURWINE. Well, I was referring to the question of this sentence which I believe you put in the letter. "There was thus a period in which persons possibly coming under the act were applying for passports with no regulations in effect under which the Department could deny them passports."

Mr. LOWENFELD. That is correct.

Mr. SOURWINE. Well, when you wrote that did you know whether it is true that there were applications for passports being made during this period of hiatus?

Mr. LOWENFELD. Well, there are always applications made. The Passport Office grants, I don't know, probably a million passports a year.

Mr. SOURWINE. I am talking about applications by persons who have been affected by this section of the act.

Mr. LOWENFELD. As to that, as a theoretical fact, I knew it. As I recall, Miss Knight had said on the basis of some FBI reports there was a list of several hundred—I do not remember the exact number—that presently held passports. You never know, of course, who is going to apply tomorrow. That is, there are, I suppose—Mr. Hoover says there 10,000 people that they think are Communists. Who knows—I do not know the figure.

Mr. SOURWINE. You did not have any particular instance in mind when you wrote this?

Mr. LOWENFELD. No, sir.

Mr. SOURWINE. And how about the closing words of that sentence: "Regulations in effect under which the Department could deny them passports."

The Department could have denied passports to a Communist without the new regulations, could it not?

Mr. LOWENFELD. Well, we had doubt about that, sir.

Mr. SOURWINE. You did have doubt about that?

Mr. LOWENFELD. In view of the Supreme Court cases, particularly *Kent* and also the *Greene* case, which as you know went on the fact of the specific and explicit chain of authority and regulation—we had doubt——

Mr. SOURWINE. You are familiar with the *Greene* case, that is *Greene v. McElroy*?

Mr. LOWENFELD. That is right.

Mr. SOURWINE. Go ahead.

Mr. LOWENFELD. I do not know for sure whether a denial not based on the regulation, and not providing for a hearing, would have stood up. We certainly had doubt about it. And we thought the right way to do it, and to sustain this kind of thing against challenge—it was clear that it would be challenged—was to have regulations properly issued.⁴⁵

Approval date on passport regulations

According to the testimony of Mr. Abram Chayes, legal adviser of the State Department, the new passport regulations were approved by the Secretary of State on Tuesday, January 9, 1962. State Department witnesses testified some congressional committees were given "advance notice" of the new regulations on January 10. The Internal Security Subcommittee, as already stated, was notified around noon on January 11. It is perhaps significant that the committees were not given the text of the regulations, but only the State Department's so-called summary of them.

Mr. LOWENFELD. * * * The text was not sent to the Federal Register until the Secretary of State and the Attorney General had explicitly approved it, but the text may have gone down there before the—all the congressional briefings had been completed.

Mr. SOURWINE. May I see that transcript, Mr. Chairman, please?

Do you know the date, Mr. Lowenfeld, on which the transmittal was made to the Federal Register?

Mr. LOWENFELD. It was either late Tuesday afternoon or Wednesday morning when the messenger actually took them over, and if you have got a calendar I can tell you. Friday was the 12th, so it was either Tuesday late on the 9th or early on Wednesday the 10th, and then I believe Mr. Leahy went up on the Hill on Wednesday and Thursday at the same time we were preparing press releases and some other briefings and so on.

Mr. CHAYES. Actually, I can confirm that, because I can confirm that I directed Mr. Lowenfeld to send it over as we left the Secretary's office after the Secretary approved the regulation.

⁴⁵ State Department Security Hearings, pt. 3, p. 338.

Mr. SOURWINE. I see. And what was the date the Secretary approved the regulations?

Mr. CHAYES. Tuesday the 9th.

Mr. SOURWINE. Now, the so-called "advance notice to the Committees" was on the 11th?

Mr. CHAYES. Well, I am not sure. Mr. Leahy handled that. Some of them were made on Wednesday and some were made on Thursday, it depended on when we could get in touch.

Mr. LEAHY. My recollection is on Wednesday I came down here and saw Representative Francis Walter and some of his staff members, and I attempted to contact Mr. Sourwine who, as I recall, was temporarily absent from his office, and I came back on Thursday and did in fact see Mr. Sourwine and handed it to him and discussed with him very briefly the regulations. I handed him the summary.⁵⁶

Mr. John Leahy, congressional liaison officer for the State Department, testified that the summary of the new passport regulations was presented to counsel for the Internal Security Subcommittee on Thursday, January 11.

Mr. SOURWINE. When was it you brought up those summaries for the committee.

Mr. LEAHY. To the best of my recollection, I brought up the summary and saw you and presented it to you on a Thursday.

Mr. SOURWINE. The 11th.

Mr. LEAHY. Which was the 11th—the day before they appeared in the Federal Register.

Mr. SOURWINE. And you told me at the time that it was intended to publish them on Monday, the following Monday.

Mr. LEAHY. I think my statement was to the effect that to the best of my knowledge, that it would appear in the Register on the following Monday.⁵⁷

Chayes explains New York Times beat

How Mr. Anthony Lewis of the New York Times got advance information respecting the new passport regulations was explained by Mr. Chayes in this testimony on June 19:

Mr. SOURWINE. Mr. Chayes, did you personally give information respecting the new passport regulations to any newspaperman other than at the public press conference you talked about?

Mr. CHAYES. No. I was called by a newspaperman who read me an account of the regulations that had come over the UPI ticker. I don't know how it got to the UPI ticker. The account was erroneous in some respects. I told him to get in touch with Mr. Lowenfeld and Mr. Lowenfeld would correct these errors.

Mr. SOURWINE. Who was that newspaperman?

Mr. CHAYES. Let me go further. I then did call Mr. Lowenfeld and authorized him to correct these errors. Well, I don't know that there is any question about who it was. I think it was Tony Lewis of the New York Times.

Mr. SOURWINE. He called you from New York?

Mr. CHAYES. No; he is here in Washington.

Mr. SOURWINE. He didn't visit you in person?

Mr. CHAYES. No.

Mr. SOURWINE. And you did not yourself privately give any information to him respecting the new passport regulations?

Mr. CHAYES. No. This was, let me say, the night of the press conference.

Mr. SOURWINE. Did you give Mr. Lewis a copy of Mr. Yeagley's letter?

Mr. CHAYES. No.

Mr. SOURWINE. Did you give him access to a copy of that letter?

Mr. CHAYES. No.

Mr. SOURWINE. Do you have any idea how he got a copy of that letter?

Mr. CHAYES. No. He covers the Justice Department.

Mr. SOURWINE. Anyway, the Times had a very thorough scoop on the new regulations.

⁵⁶ State Department Security Hearings, pt. 3, p. 311.

⁵⁷ Ibid., p. 334.

Mr. CHAYES. They didn't have a scoop, because the UPI story had come out on Thursday. From what source, I don't know. But I have satisfied myself that it was no source in my office. And I think if you once look at the first story on it, it was in the Star of Thursday night—the UPI story, as I recall, was the first story on that. The Times came out the morning—Friday morning—that is the morning that the regulations were issued.^{58 59}

Reprisals against passport witnesses opposed

Deputy Under Secretary Jones, testifying on June 7, 1962, began by saying that he spoke only for himself when he wrote to Senator Dodd, vice chairman of the committee, disavowing any intention to bring any charges against either Miss Frances Knight or Mr. Robert Johnson for compliance with a subpoena of the Internal Security Subcommittee.

Senator HRUSKA. Mr. Jones, in connection with this letter of Senator Dodd addressed to you, it does say:

"I ask that the committee be advised of any charges brought or any disciplinary action taken against Miss Knight or any other official or employee of the Department as a result of compliance with a subpoena of this committee or appearance and testimony before this committee."

Now, in reviewing and reading your answer of May 22, the only direct response I find to that particular language is found in these words:

"I do not contemplate bringing charges against either Miss Knight or Mr. Johnson."

I bring that up for this reason. Senator Dodd asked that he be advised of any charges or any disciplinary action. Can you tell us that the Department or your successor in your position will inform the committee of any such charges that might be brought or any disciplinary action that might be exercised against either Miss Knight or anybody else?

Mr. JONES. Well, this is a closed incident, Mr. Chairman——

Senator HRUSKA. It is not closed with us, I assure you.

Mr. JONES. No, but I mean insofar as my involvement is concerned. I cannot speak for my successor, but I certainly contemplate no action and have taken no action.⁶⁰

After Senator Hruska prodded him further, Mr. Jones changed his tune somewhat:

Senator HRUSKA. You cannot speak for your successor in person; however, you can speak for the policy of the Department.

Mr. JONES. The policy of the Department right now is, this is a closed incident.

Senator HRUSKA. Well, I would very respectfully like to differ. You could consider this as a closed incident but if it is closed, tomorrow charges could be brought and we would not be informed and we don't propose to have that happen, nor would we contemplate this being a closed incident if any disciplinary action was taken against Miss Knight or anyone else on account of their appearance and testimony. I assure you most respectfully we do not consider this a closed incident.

Mr. JONES. Well, may I clarify, Mr. Chairman? Senator Dodd's letter to me was immediately reviewed by me with the Secretary. My recommendation was that there was no appropriate course of action beyond calling to her attention the fact that she had not complied with the Department regulations, that is all that was done, that is all I intended to do and as far as I know that is all the Secretary intends to do, and I assume his will will be guiding to my successor.

Senator HRUSKA. As of now it is a closed incident. There will be no disciplinary action?

Mr. JONES. Right.

Senator HRUSKA. And no charges?

Mr. JONES. That is right.

Senator HRUSKA. I understand. I thought that perhaps you figured it was something that we should forget about.

Mr. JONES. No, sir.⁶¹

⁵⁸ State Department Security Hearings, pt. 3, p. 364.

⁵⁹ Ibid., pt. 3, p. 262.

⁶⁰ Ibid., pt. 8, p. 325.

⁶¹ Ibid., pt. 3, pp. 325, 326.

Notwithstanding the commitment set forth respecting possible reprisals against Miss Frances Knight and Robert Johnson, the committee has learned, since these hearings, that the new Administrator of the Bureau of Security and Consular Affairs plans to curtail the authority of the Passport Division and of its Director and to move not only Johnson but all other legal officers of the Passport Division to the Office of Legal Counsel under the jurisdiction of Mr. Abram Chayes.

The committee would consider any action of this nature as contrary to the commitment referred to above.

The subcommittee affirms the positions taken by Senator Dodd and Senator Hruska. We earnestly hope that the Department will not at any time bring disciplinary action of any nature against any official or employee as a result of compliance with a subpoena of this subcommittee or appearance and testimony before this subcommittee, and renews the request made by Senator Dodd that the subcommittee be advised of any charges brought or any disciplinary action taken against any official or employee of the Department as a result of compliance with a subpoena of this subcommittee or appearance and testimony before this subcommittee.

Under the new regulations, which purport to prohibit the Passport Office from considering confidential information in deciding whether to issue a passport, it will be frequently impossible to deny passport facilities to members of the Communist Party, as provided by law. About the only Communists who actually will be denied passports are a handful of Communist Party functionaries on the national level who, because of public knowledge of their Communist connections, are practically impotent in the field of espionage. These individuals are symbols or figureheads of the Communist Party and the glare of publicity over the years has left them with little or no influence over non-Communists. It is the issuance of passports to the relatively unknown, undercover Communists who may be engaged in espionage, sabotage, and sedition which constitutes the very real danger with which Congress is concerned. These are the enemies with capabilities for inestimable damage to the security of our country.

FBI Director J. Edgar Hoover has warned that—

The Communist threat from without must not blind us to the Communist threat from within. The latter is reaching into the very heart of America through its espionage agents and a cunning, defiant, and lawless Communist Party which is fanatically dedicated to the Marxist cause of world enslavement and destruction of the foundation of our Republic.⁶³

In the light of this statement it is alarming and frustrating that new regulations have been issued which, in effect, forbid the Nation to protect itself from this threat with one of the sanctions Congress intended should be used.

The Passport Office has been instructed that, when it considers the application of a person whose file indicates Communist membership, the confidential information which cannot be used at a hearing or communicated to the Communist applicant must be separated from the public information which can be so used or communicated, and that only the latter may be considered in recommending a denial.

This is simply an attempt at administrative brainwashing.

⁶³ Congressional Record, Mar. 19, 1962, p. A2062; State Department Security Hearings, pt. 3, p. 236.

The issuing officer is being commanded by these regulations to tailor his reason to an artificial and illogical pattern. He is told that he *may not believe* that an applicant is a member of a Communist organization if he cannot prove it by data which can be made public, regardless of how much classified confidential information is furnished by the FBI, or other agencies of government, to show that the individual is a dangerous Communist. If the proof cannot be used in open hearings, with the right to cross-examine witnesses, the issuing officer must not only disregard the classified information, but is told to forget it.

It is not difficult to understand why information regarding the activities of the most dangerous Communist operators in the United States is classified and cannot be made public. It certainly is not difficult to understand why the FBI will not make available its informants and counteragents to be questioned by Communist passport applicants and their lawyers. What is difficult to understand is why the State Department issued these regulations which presume to "interpret" out of existence the clear mandate of the Internal Security Act of 1950.

Issuance of the regulations brought about an immediate protest from Members of the Congress and some segments of the press. In a letter to Secretary of State Rusk on January 16, 1962,⁶³ Senator Thomas J. Dodd sought earnestly to have the regulations withdrawn, and urged the Department of State to comply with the law by refusing to issue a passport to any applicant the issuing officer knows or has reason to believe is a member of the Communist Party, leaving the applicant in each such case to seek in the courts whatever remedy he may think is available to him. Senator Karl E. Mundt wrote to Secretary Rusk on January 17, 1962,⁶⁴ stating that he viewed the regulations with grave concern, and questioning the wisdom of extending the rights of confrontation and cross-examination to administrative proceedings when national security is at issue. Senator Mundt also pointed out that the matter is further complicated by the fact that because of the Internal Security Act provision making it unlawful for any officer of the United States to issue a passport to an individual who he knows or has reason to believe is a member of a Communist organization, the new regulations will place in an impossible legal position those officers in the Department of State who are responsible for passport issuance.

Representative Francis E. Walter introduced in the House of Representatives on January 18, 1962, a bill spelling out a passport review procedure under which the Department of State may consider appeals from rulings under which passports are denied to Communists and members of Communist organizations pursuant to section 6 of the Internal Security Act of 1950. Mr. Walter issued a statement at the time of introduction of the bill which pointed out that the urgent need for this kind of legislation is stressed by the fact that the Department of State, without consultation with appropriate committees of the Congress, has seen fit to issue regulations nullifying the law and facing the U.S. Government with the problem of either permitting the Communists and their attorneys virtual free access to the confidential files of the FBI, the CIA, and other investigative agencies, or issuing passports to Communists notwithstanding the prohibition now in

⁶³ State Department Security Hearings, pt. 3, pp. 270, 271.

⁶⁴ Ibid., pt. 3, pp. 274, 275.

effect.⁶⁵ The Washington Evening Star of January 13, 1962, reported expressions of dissatisfaction by Senators Hickenlooper, Keating, Lausche, and Mundt, regarding the issuance of the regulations.⁶⁶

As early as November 1960, a proposal for comprehensive revision of the rules and regulations governing the issuance of passports had been made by Miss Frances Knight, Director of the Passport Office. In Miss Knight's opinion, the revision was practical and workable, and protected the security of the United States.⁶⁷ But her proposal was never acted upon. On December 15, 1961, the matter of revising the passport rules and regulations was brought up by the Office of Legal Adviser. Miss Knight informed the Legal Adviser that her Office had already completed a revision on the subject, and made a copy of it available to him. She was subsequently advised that the Communist issue was of immediate importance and that the Office of Legal Adviser had rewritten part of the regulations, though many paragraphs were identical to regulations which had been issued in 1952. The most important and significant changes, however, were those which established confrontation and the right to cross-examine witnesses, and barred the use of classified information to deny a passport.

At the time Miss Frances Knight testified (in May 1962) Communists already were getting passports under the new regulations:

Mr. SOURWINE. Was Mr. Roger Jones advised of your position that if it was determined that a passport should be issued, or renewed for an individual whom you knew or had reason to believe was a member of the Communist Party, then in each and every case you wanted to get specific instructions directly from the Secretary of State?

Miss KNIGHT. Yes, sir. Mr. Roger Jones was advised of that, because I told him at a meeting.

Mr. SOURWINE. And what did he say? What was his position with regard to your position?

Miss KNIGHT. Mr. Jones had a very sympathetic understanding of my position, and he agreed that he would take the responsibility of ordering me to issue a passport in cases where the Department felt that it had to do so under the regulations.

Mr. SOURWINE. Now, if you should be ordered in that manner to issue a passport in a case where the law makes it a crime to issue it, you would be kind of in trouble, wouldn't you?

Miss KNIGHT. Yes, sir; I would be in trouble.

Mr. SOURWINE. Have you made up your mind what you would do in such a case?

Miss KNIGHT. It has already been done, sir, in two cases.

Mr. SOURWINE. What do you mean?

Miss KNIGHT. Well, in my position on two passport cases, I have indicated that I had reason to believe that the individuals involved were members of the Communist Party.

Mr. SOURWINE. And you have thereafter been directly ordered to issue passports, notwithstanding?

Miss KNIGHT. Yes, sir.

Mr. SOURWINE. And you have done so?

Miss KNIGHT. Yes, sir.

Mr. SOURWINE. From whom did you get the orders?

Miss KNIGHT. From Mr. Roger Jones.

Mr. SOURWINE. By direction of the Secretary of State?

Miss KNIGHT. Yes, yes, it was worded "by direction of the Secretary of State."

Mr. SOURWINE. So you felt that satisfied your requirement that you have orders direct from the Secretary.

Miss KNIGHT. Yes.⁶⁸

⁶⁵ State Department Security Hearings, pt. 3, p. 280.

⁶⁶ Ibid., pt. 3, pp. 269, 270.

⁶⁷ Ibid., pt. 3, p. 245.

⁶⁸ Ibid., pt. 3, p. 244.

Testimony of Mr. Chayes on June 19, 1962, shed more light on the question of what reliance passport officials may place on assurances that they will be safe from prosecution under section 6 of the Internal Security Act should they grant passports to Communists if their excuse is that they excluded from consideration all confidential information:

Mr. SOURWINE. Did you read the letter of Mr. Yeagley, of January 5 of this year, as promising that there would be no prosecution of any State Department official under section 6 of the Internal Security Act provided the official excluded from all consideration all matters of fact or evidence which could not be put on a public record?

Mr. CHAYES. I don't believe this is a promise in the sense that Mr. Yeagley or the Department of Justice undertakes to do so. Moreover, I don't think Mr. Yeagley or the Department could make a promise, at least which was binding upon their successors. But I do believe that the statement in the letter, plus the advice which we, on our own, gave our officials, would make it very difficult to prosecute a State Department officer who had acted in accordance with that legal advice.

Mr. SOURWINE. The Department of Justice could not, by letter of an Assistant Attorney General, suspend the effect of a statute.

Mr. CHAYES. That is correct; it could not.

Mr. SOURWINE. Nor could the Department of State give immunity to one of its employees from provisions of a statute.

Mr. CHAYES. That is correct; it could not.

Mr. SOURWINE. Do you think that intent to violate is an element of the crime under section 6 of the Internal Security Act?

Mr. CHAYES. As you know, problems are very, very difficult and complicated in connection with statutes of this kind. But obviously, as in—by far the greater part of criminal offenses, the mental element is an element in the offense. Now, just what the mental element is that is required here, I wouldn't undertake to say now in advance of a court decision. On the other hand, I have advised my own clients in the Department that they may proceed on the basis of these opinions.

Mr. SOURWINE. Well, Mr. Chayes, isn't this the type of case involving a specific prohibited act in which the only intent necessary for the commission of the crime is the intent to perform the act?

Mr. CHAYES. I would not—I wouldn't want to get into an argument about that now. I myself think not. That is, I think if a public officer proceeds on the basis of this advice, and assuming for the moment that the advice is not that far out of line, he has not committed a crime. I mean if the advice is not palpably erroneous.

Mr. SOURWINE. Well, suppose the advice is palpably erroneous.

Mr. CHAYES. Well, obviously, you know as well as I do there are cases concerning the extent to which reliance on the advice of counsel is a defense to a criminal prosecution. Mostly these cases arise—I don't know any that arise in connection with public officers, but some certainly have arisen in connection with private parties.

Mr. SOURWINE. Did you ever know of such a case to arise in connection with a statute which prohibited a particular act?

Mr. CHAYES. Oh, yes. Well, I don't know of any of the cases in detail now. But I am sure—I am not sure—I could undertake to look them up for the committee if you choose.

Mr. SOURWINE. You are saying, in other words, that the advice of an attorney to an individual that he may safely perform an act which a law specifically proscribes can be a protection to the client in the performance of the act?

Mr. CHAYES. Well, you say which a law specifically proscribes, and that is really the issue here. Does the law specifically proscribe the act that the attorney has advised him that he may proceed with?

All I am saying—and I think the state of the law is this—that a client is not entitled to rely on the advice of his attorney on all matters. That is, there will be instances—you can imagine a lawyer saying "well, you may draw your gun and pull the trigger and kill the man across the table from you." The client is supposed to be able to say to the attorney "well, that just isn't so. I know better."

But within a fairly broad range on matters of interpretation such as this, it seems to me that the law would support the fact that where the client acted upon

the advice of his attorney, which is not palpably unreasonable, the mental element necessary to create a crime is lacking—even if the attorney's advice should turn out in the end, or construction of the statute should turn out in the end to be erroneous.

Mr. SOURWINE. Well, I think that states your position very clearly.

Would you say that if the attorney's advice is plausible, the client may take it with impunity?

Mr. CHAYES. I say if it is not palpably unreasonable. I suppose plausible means much the same thing. I am not—I haven't examined the cases recently, and I wouldn't try to accurately define the boundary between permissible reliance and impermissible, except that I think this is within the boundary.

Mr. SOURWINE. Well, Mr. Chayes, would the reverse of that be true? That if the client didn't believe the attorney was right, he couldn't rely on his advice?

Mr. CHAYES. Well, I don't know that that has ever been considered, or whether—

Mr. SOURWINE. Well, consider it now.

Mr. CHAYES. Well, I think part of this is involved—I mean, what you want to do is see what the court cases say.

I am not sure that the client himself, not an expert and not having the qualifications necessary to make this kind of judgment—I am not sure that the state of his mind is relevant, within the limits of plausibility or reasonableness.

Mr. SOURWINE. Well, Mr. Chayes, if intent is the element we are talking about, why isn't the state of mind of the client or actor the most important factor?

Mr. CHAYES. The state of mind in terms of his believing or disbelieving the attorney's advice within the realm of reasonableness seems to me not to be relevant because the client in that situation understands that he is not qualified in the same way that the attorney is to deal with this. He is relying on the attorney for judgment.

Mr. SOURWINE. Why couldn't the client then, in the case of the attorney who says "you may draw your gun and shoot the man," why can't he draw the gun and shoot?

Mr. CHAYES. I said within the elements of reasonableness. Because beyond some limit of, as you call it, plausibility, and I have called it palpable unreasonableness—beyond that we talk of the client being responsible for his own judgment.⁶⁹

Mr. Chayes' testimony made it clear he thinks Miss Frances Knight's position is justified:

Mr. SOURWINE. Now; let's assume this case, Mr. Chayes. Assume the case of a client to whom his or her attorneys advice seems unreasonable, who is satisfied that any educated person who can understand the English language knows that the law prohibits a certain act, and who does not believe the attorney is correct in stating that the act may be performed with impunity. If that client performs the act, on the attorney's advice, can he or she claim the attorney's advice as a protection?

Mr. CHAYES. And the attorney's advice turns out to be wrong in the end?

Mr. SOURWINE. Yes.

Mr. CHAYES. Well, I would say a person of that kind, having that view of the law, would be entitled to ask to be relieved of responsibility in acting—that is, to act in that situation only under the direction of a superior or something of that kind—if I were advising that person, let's say, I would advise that person to insist that when he acted in such a situation, he should get an order from a superior. And I think—again, as we know, the defense of acting under orders—doesn't cover everything. But in this kind of situation, I think if the person registered his objection and were directed by a responsible superior, nonetheless, to go forward, the person would not be guilty of crime.

Mr. SOURWINE. You skipped a step, have you not? Instead of directly answering my question, you applied it to the framework of your own responsibility under passports, which is a natural thing. The actual answer to my hypothetical question, is it not, is that such a person would not have the reliance upon the attorney's advice.

Mr. CHAYES. I would say—again, I think this is quite an interesting question, and I don't know of any cases on it. But I wouldn't think that the person who failed, feeling as you have described, but nonetheless failed to, for one reason or

⁶⁹ State Department Security Hearings, pt. 3, pp. 350-352.

another—failed to get an explicit direction to act in the particular case—I wouldn't say her case before the court would be hopeless. I think——

Mr. SOURWINE. You are applying it to a specific individual again. There wasn't any problem of directive in connection with the question as I asked it.

Mr. CHAYES. No. What I am saying——

Mr. SOURWINE. You are getting to the point that if there is a subservience of some sort, administratively or otherwise, employment or duty, and an order, that there is then an exculpation or a justification. I am not discussing that at the moment.

Mr. CHAYES. Well, I would say even in the private situation, where the lawyer gives advice, which turns out to be reasonable advice—we start out with the proposition that it is somehow within these limits——

Mr. SOURWINE. The client thinks it is unreasonable.

Mr. CHAYES. But the client believes that it is unreasonable. I don't think the client's case is hopeless if the client then acts on the lawyer's advice, by any means. It does seem to me that, in a thoroughly private case, where the client is under no compulsion to act, it is a fair question to the client who says "well, I thought the lawyer's advice was unreasonable, but he told me to do it anyway"—"well, why did you act if you thought the advice was unreasonable."

But in the situation where there is some kind of compulsion, or where the client or where the person acting can secure a directive, then it seems to me all of that fades out.

Mr. SOURWINE. We will get to that in just a minute. I think I understand your position on it. But what is the difference between the case as I just cited it, as a hypothetical case, and the case you suggested of the lawyer who tells the client he can draw the pistol and shoot the man across the table. In both cases, the client thinks—to him, knows, that the advice is unreasonable. In both cases, it turns out the lawyer was wrong.

Mr. CHAYES. Well, I just think the law has often drawn distinctions between judgments made as to advice which a court, or as to a situation which a court later decides is reasonable, as opposed to the situation in which it says it is unreasonable. I am not saying necessarily that the result would be different. I simply say that the case is a different one, and it is an easier one for the defendant—if the lawyer's initial advice was reasonable—because these are kinds of distinctions that courts love to draw.

Mr. SOURWINE. Now, your point that the action which might otherwise be illegal may not be illegal if it is done under orders from higher authority—would these orders need to be in writing?

Mr. CHAYES. Oh, I am not sure that that is necessary. Obviously, the questions of proof occur, questions of how strongly the orders were conveyed, and so on—all of those things are easier to deal with if the orders are in writing. But I should think an oral—assuming that it could be shown—an oral directive by a person having authority to give the directive would be effective to exculpate the officer who is acting.

Mr. SOURWINE. Now, in such a case, who would be responsible, under the law, for the violation of the statute if there were a violation?

Mr. CHAYES. If there were a violation, and so on, I assume that the responsible official who gave the order would be the violator.

Mr. SOURWINE. In other words, in the case of a passport, which under the new regulations is issued by a directive signed by an Assistant Secretary of State, the Assistant Secretary of State would be responsible if anybody is.

Mr. CHAYES. Oh, yes. Maybe is——

Mr. SOURWINE. The person below him, who acts in a clerical capacity, even though his or her position may be higher than clerical, under this order, acts in a clerical capacity.

Mr. CHAYES. Ministerial.

Mr. SOURWINE. Yes; that is a better word—in a ministerial capacity—would not be the actor under the statute.

Mr. CHAYES. Would have no responsibility.

Mr. SOURWINE. Would have no responsibility for the act. In other words, the act would be performed in the contemplation of the law by the person who ordered it.

Mr. CHAYES. Right. Now, again——

Mr. SOURWINE. Suppose the Assistant Secretary, in his order, said by direction of the Secretary of State. Would that be enough to inculcate the Secretary of State?

Mr. CHAYES. Well, again, it is a very thin set of facts. If that were the only involvement of the Secretary of State, perhaps it would not be. Perhaps the Secretary of State himself would have to have some knowing involvement. There is not quite unauthorized use of "by the Secretary" because the Assistant Secretary presumably has some authority to sign for the Secretary.

But when you come to matters of crime, I suppose the Secretary could not be made to commit a crime without his knowledge.

Mr. SOURWINE. Now, I think I would know why you used the word "she" a moment ago. It is because you are entirely familiar with the fact that Miss Frances Knight, who heads the Passport Division, has made it clear in writing that she considers the new regulations unreasonable, and that she feels she would be committing a crime if she issued a passport, and she has asked that she be specifically instructed if there is to be such an issuance.

Mr. CHAYES. I wouldn't have used the word "she" except that you said he or she in asking the question, and that recalled to my mind the problem with Miss Knight. Yes; I think Miss Knight has asked for a specific instruction, and I don't think there is any problem about giving her one.

Mr. SOURWINE. You assume she will have it in each case.

Mr. CHAYES. I think we have already provided that she will have it in each case.

Mr. SOURWINE. And your legal opinion is that this exculpates her from any possible prosecution under the act.

Mr. CHAYES. Yes.⁷⁰

Five hundred known Communists get passports

Miss Knight confirmed that, since the decision of the Supreme Court in the *Kent and Briehl v. Dulles* case, more than 500 known members of the Communist Party have received passports.

Miss Knight, according to the committee's information, passports outstanding January 1, 1962, included 547 held by known members of the Communist Party, of which 30 were Communist Party functionaries. Of this total of 547 passports, 368 were valid as of the end of November 1961, and the remainder required renewal as of that date.

Can you tell me if these figures as I have quoted them are correct according to your records?

Miss Knight. According to my records, those figures are correct.

Senator DODD. Would it be helpful if we knew when these passports were issued originally, or initially?

Miss KNIGHT. Yes, I believe I have that information prepared, perhaps not in exactly the form that you would wish to have it, but I have the figures, and they could be made available to the committee.

Senator DODD. That would be satisfactory—if you could make them available.

Miss KNIGHT. Yes, sir.

Senator DODD. What I would like to know is when these passports were initially issued.

Miss KNIGHT. Yes, sir.

Senator DODD. As I understand counsel, he asked if they were renewed.

Mr. JOHNSON. May I clarify that for the Chair. These would be passports issued subsequent to June 16, 1958, which was the date of the Briehl-Kent Supreme Court decision, holding that we had no legislative authority for the Communist regulation.

Senator DODD. I see. Even so, I would like to get the figures.

Miss KNIGHT. Yes, we have that.

Mr. SOURWINE. Who categorized these 547 passport holders as known members of the Communist Party? Was that on the basis of the best information available to you?

Miss KNIGHT. That is on the basis of the information available to the Passport Office; yes, sir.⁷¹

Secretary opposed to canceling Communist passports "wholesale"

Opposition by the Secretary of State to the "wholesale" cancellation of passports held by Communists was dealt with by Mr. Chayes in his testimony of June 19:

⁷⁰ State Department Security Hearings, pt. 3, pp. 352-355.

⁷¹ Ibid., pt. 3, pp. 246-247.

Mr. SOURWINE (reading):

"December 7: Passport Office sent a memorandum to Mr. Abram Chayes recommending that the following statement be placed in all passport application forms, registration forms, agency notices, and so forth: 'Section 6 of the Internal Security Act of 1950, 50 U.S.C. 785, provides a severe penalty, fine, and/or imprisonment for a member of a Communist Party of the United States who applies for a passport or the renewal of a passport, or who uses or abuses or attempts to use a passport.' "

The same date——

Mr. CHAYES. You want me to respond to that?

Mr. SOURWINE. No, not yet. The same date there was a meeting in the legal adviser's office.

"Mr. Abram Chayes reviewed his conversations with the Department of Justice attorneys. Mr. Chayes advised Miss Knight of the Secretary's interest in not withdrawing passports, but in having the statute enforced by means of criminal prosecutions in due course."

What do you mean by the Secretary's interest in not withdrawing passports?

Mr. CHAYES. Well, let me start with the notification, the card, and the notification business—although it may appear, there may be a recommendation from passport to us, the fact is that Miss Knight and I talked about various steps to be taken once the regulations went into effect. And one of the important things, and one that could be done very quickly, we decided, at an early stage was to notify applicants of the fact that the law was in effect so that, again, in prosecutions there would be no claim of unintentional violation or something like that.

Now whether the initiation of that came from Passport or not, I do not know. But the memorandum was long after the thing was initiated.

As to the other, the withdrawal problem, the Secretary—I raised the question briefly with the Secretary, and the Secretary was concerned that there not be a wholesale cancellation of passports which would lead to a lot of litigation and a lot of activity in the Department of this kind. At first his view was that we should simply wait and let criminal penalties apply, once a person had applied, for a passport, let him be prosecuted, rather than the other way around. Later, after further consideration of the matter and after talking with the Department of Justice, we jointly decided to recommend that certain passports be picked up—again, the high ranking ones be picked up. And we made that recommendation to the Secretary and he accepted it.⁷³

When Deputy Under Secretary Roger W. Jones appeared before the committee on June 7, 1962, he was accompanied by Abram Chayes, legal adviser, and Andreas Lowenfeld, of Mr. Chayes' office. All three testified during this session.

Mr. Lowenfeld testified he participated "to a substantial extent" in the drafting of the new passport regulations. He also discussed consultation and collaboration between the Department of State and the Department of Justice in connection with the letter eventually signed by Assistant Attorney General Yeagley, with regard to interpretation of the Internal Security Act in respect to passport procedures.

Mr. SOURWINE. Mr. Lowenfeld, did you participate to any extent in the drafting of the new passport regulations?

Mr. LOWENFELD. Yes; I did.

Mr. SOURWINE. Would you say to a substantial extent?

Mr. LOWENFELD. Yes; I would.

Mr. SOURWINE. To what extent was there cooperation with the Department of Justice in the drafting of these regulations?

Mr. LOWENFELD. Well, I think perhaps I can tell you my role in this.

Mr. SOURWINE. It would be very helpful if you would.

Mr. LOWENFELD. There had been talks, both between the Passport Office and our Office, that is the Legal Adviser's Office, and apparently with the Justice Department ever since the Supreme Court decision of last June in the *Communist Party* case. I was not a party to those.

⁷³ State Department Security Hearings, pt. 3, pp. 372-373.

About the middle of December or so, Mr. Chayes thought that he ought to take a personal and direct interest in them. And I was his arm for doing that—being his special assistant.

At that point, I investigated in our own office and I discovered there were memos floating around, and I thought we ought to move fast. And then together with one of the young people in our office I sat down and drafted, just in rough draft, what became the regulations. There were two or three of us who did that. We also at that time consulted with the Passport Office, with Miss Knight and Mr. Johnson. This was first just in a rough typewritten copy, and then we made various changes, five or six of us, in our office.

We did send—at the same time there were conversations going on with the Department of Justice, and we sent over a copy of the draft regulations to the Justice Department for their technical comments.

Mr. SOURWINE. Who did that go to—Mr. Yeagley?

Mr. LOWENFELD. I believe that went to the Office of Legal Counsel, Mr. Katzenbach's office. Now, I cannot remember exactly whether that was before or after the meeting which I spoke about the other day. That is, there was a meeting which the Deputy Legal Adviser—and I do not know whether he was acting then or not—Mr. Meeker and I attended, with several representatives of the Justice Department, at which some of the statutory basis and so on was discussed, and at which a draft of what became the letter of January 5, which is in your record, was read by, I think, Mr. Katzenbach.

Mr. SOURWINE. That was the first you had seen of that draft?

Mr. LOWENFELD. That was the first I had seen of that draft. In fact, I did not know it was in existence, though I knew they were working on the problem.

Now, I am not quite sure whether it was before or after that we sent a copy of the stenciled version of the regulations over, as I say, for technical comments. They phoned various changes over to us. You know how it is when you prepare these things—change an “and” to a “but” and so on.

So to that extent, I would say, just to finish, that the letter was theirs. The regulations were ours. There is no question about that.

Mr. SOURWINE. The letter was prepared in Mr. Katzenbach's shop.

Mr. LOWENFELD. I believe that is right.

Mr. SOURWINE. Although it is signed by Mr. Yeagley.

Mr. LOWENFELD. Well, as I recall at that meeting there was somebody from Mr. Yeagley's office present. But I think your conclusion is substantially—you would have to ask them.

Mr. SOURWINE. Well, I want to ask you what you know. From what you have told us, it would appear the letter was prepared in Mr. Katzenbach's shop.

Mr. LOWENFELD. I believe that is right.⁷³

Lowenfeld drafted Dutton letter to Dodd

Mr. Lowenfeld, according to his testimony, also prepared the original draft of Mr. Dutton's letter to Senator Dodd under date of January 29, 1962.

Mr. SOURWINE. Now, I want to get back into the question of this letter with Mr. Dutton's signature to Senator Dodd (regarding publication of new passport regulations).

Here is the text of it as it appears in our records. We had some discussion of it at the session where you and Mr. Chayes were together.

You had the basic task of preparation of this letter, did you not?

Mr. LOWENFELD. Well, I suppose Mr. Chayes did. But, yes, I worked on it.

Mr. SOURWINE. Well, Mr. Chayes was not concerned with it until after there was a draft; isn't that right?

Mr. LOWENFELD. That is correct.

Mr. SOURWINE. And you prepared that draft.

Mr. LOWENFELD. That is correct.⁷⁴

Mr. Chayes in his testimony of June 19 did not entirely agree with Mr. Lowenfeld's version:

Mr. SOURWINE. I think you had indicated that you had or took responsibility for the new passport regulations, although the drafting had been done in your office by others.

⁷³ State Department Security Hearings, pt. 3, pp. 332-333.

⁷⁴ Ibid., pt. 3, p. 333.

Mr. CHAYES. Well, let me say I saw the transcript of Mr. Lowenfeld's testimony on that point. And while I don't want in any way to controvert it, I would like to clarify it for the committee. It is true that Mr. Lowenfeld put the words down on paper that resulted in the first draft. It is not true that I did not consider the matter or consider the issues until a draft was before me. In fact, we had discussed the question very thoroughly. I had discussed it not only with Mr. Lowenfeld, but with, as I have already said, people in the Department of Justice. And we had considered the issues very carefully before the work of actually drafting the regulations was embarked upon. When Mr. Lowenfeld sat down to prepare a draft, I had given him instructions on the lines along which the draft should develop. So that it is not just that I sat and reviewed a draft that was brought to me and approved it or disapproved it. I conferred with Mr. Lowenfeld before the draft and gave him directions as to the form the draft should take. And then when the draft came back to me—I think it came back to me two or three times—I did myself work through it a couple of times, and suggested changes here and there, and so on.⁷⁵

Consultation and collaboration between the Department of State and the Department of Justice in preparation of the letter ultimately signed by Assistant Attorney General J. Walter Yeagley, which has been cited as the basis for the new passport regulations, was admitted by both Mr. Chayes and Mr. Lowenfeld on the occasion of their appearance together before the committee on June 7.

Mr. SOURWINE. Let me ask you, where officials of a particular Department in the executive branch are attempting to justify a course of action taken by them on the ground that such course of action was required by legal opinion from the Department of Justice, will you agree that it is proper, pertinent and germane to show, if this be the fact, that these officials themselves or some of them participated in the drafting of the Department of Justice letter approving the text before it was signed and formally transmitted?

Mr. JONES. No, I don't, I don't think I could agree with that.

Mr. SOURWINE. Would you agree to that, Mr. Chayes?

Mr. CHAYES. Well, first of all, although this appears in a letter from the Department of Justice, I would say that I, in the exercise of my own responsibility, independently reached the same result—

Mr. SOURWINE. Your office participated in the drafting of that letter, didn't it?

Mr. CHAYES. I don't believe—I am not altogether sure. I am sure that representatives of my office were at a meeting and heard a draft read and they made suggestions.

Mr. SOURWINE. Mr. Lowenfeld did not participate in the drafting of that letter?

Mr. LOWENFELD. No, sir, I did not. I did—as Mr. Chayes said, he was out of town, and with the acting Legal Adviser, I went to a meeting at the Justice Department in which a draft of the letter—and I take it the draft is more or less what is here—the drafts were read to us and we were asked, "How does this sound to you?" And we said it sounded all right.

There is not a word in this letter that represents my hand.

Mr. CHAYES. And may I add, to make the record complete, I don't want to hide anything, we were in consultation with the Department of Justice on this matter. It was obviously a matter of deep concern to both our Department and the Department of Justice. It involved the administration of a criminal statute in which the Department of Justice had enforcement responsibility, and it involved activities in the Immigration and Naturalization Service, who are the people who handle passports at the ports of entry, and it involved responsibilities and problems of the FBI, all of which are responsibilities of the Department of Justice and obviously, in a matter of this kind, it would not have been consistent with the precepts of wise administration to lock ourselves in one cell and then in another—

Mr. SOURWINE. Well, you obviously knew what this letter was going to say—

Mr. CHAYES. Oh, sure.

Mr. SOURWINE. Before you received it.

Mr. CHAYES. Yes, sir.

⁷⁵ State Department Security Hearings, pt. 3, p. 356.

Mr. SOURWINE. Because you were acting on it before it had been formally signed.

Mr. CHAYES. No, we were not acting on it before it had been formally signed.

Mr. SOURWINE. But your regulations were finalized, you knew such a letter was going to come over.

Mr. CHAYES. Oh, yes.

Mr. SOURWINE. Before it arrived.

Mr. CHAYES. Sure we did; sure we did, no question about that.

Mr. SOURWINE. It was not a situation in which you were compelled by the Department of Justice to have taken a particular course of action.

Mr. CHAYES. Yes—I mean, as I said in the beginning, although this letter comes from the Department of Justice, I independently in the pursuit of my own responsibilities as Legal Adviser of the State Department, having myself a responsibility to construe the statute for purposes of our own administration, reached the identical decision.⁷⁶

On January 4, 1962, the Passport Office refused to concur in a final draft of the regulations which had been submitted to it for approval.^{76a} On January 6, the Passport Office was informed that the Department of State position, in favor of confrontation and cross-examination of witnesses in Communist cases, was supported by the Department of Justice.⁷⁷ At the same time, the Passport Office was advised that the Department of Justice interpretation of the law was binding and that a passport was to be denied under the new regulation, only on the basis of information that could be disclosed to the applicant, or placed in a hearing record.

Miss Knight made it abundantly clear at that time that most, if not all, of the Department's information regarding Communist Party activity is furnished by the FBI which specifically enjoins distribution of the information outside the Department of State. She stated that any regulation which provides that the Passport Office cannot consider confidential information makes it virtually impossible to deny passport facilities to members of the Communist Party.

Miss Knight said:

I, as the issuing officer, am supposed to tailor my "*reason to believe* that the applicant is a member of a Communist organization" to data which can be made public regardless of how much classified information is produced by the FBI or other agencies of Government to the effect that the individual is a dangerous Communist. If the proof cannot be used in open hearings, with the right to cross-examine witnesses, I have been instructed to disregard it. In other words, I am expected to read the file, dismiss the classified information and base my decision on what can be best described as generalized public information. I maintain that no one can do this in good conscience and this places me in a difficult position between the law and the Government's expert legal advisers who interpret the law. It is a fact that under the present regulations, the more treacherous and vicious and destructive the individual may be, the less likely it is that he will be denied a passport. (Emphasis supplied.)

It is not difficult to understand why information regarding the activities of the most dangerous Communist operators in the United States is classified and cannot be made public. It certainly is not difficult to understand why the FBI will not produce its informant agents and counteragents to be questioned by alleged Communists. What is hard to understand is why we are not permitted by law to protect ourselves from these people.⁷⁸

Both Mr. Jones and Mr. Lowenfeld indicated disagreement with the statement of Miss Frances Knight, head of the Passport Office, that the new passport regulations make it virtually impossible to deny passport facilities to members of the Communist Party, U.S.A.:

⁷⁶ State Department Security Hearings, pt. 3, pp. 319-321.

^{76a} See appendix, p. 203, view of Security and Consular Affairs and Passport Office.

⁷⁷ Ibid. pt. 3, p. 236.

⁷⁸ Ibid. pt. 3, p. 237.

Mr. SOURWINE. Mr. Jones, do you agree with the testimony of Miss Knight, that any regulation which states that we could not consider confidential information makes it virtually impossible to deny passport facilities to members of the Communist Party, U.S.A.?

Mr. JONES. Would you repeat that? I have not seen the testimony.

Mr. SOURWINE. This is from page 17 of her testimony, that any regulation, and she was referring, of course, to passports, any regulation that states we cannot consider confidential information makes it virtually impossible to deny passport facilities to members of the Communist Party, U.S.A.

Mr. JONES. I don't think I could agree with that entirely, sir, no.

Mr. SOURWINE. Mr. Lowenfeld, do you agree with that testimony by Miss Knight?

Mr. LOWENFELD. No sir, I don't.⁷⁹

Mr. Chayes' attempt to negate Miss Knight's testimony about the effect of the new passport regulations fell rather flat:

Mr. SOURWINE. Mr. Chayes, Miss Knight has testified, and I quote from her testimony:

"Any regulation which states that we cannot consider confidential information makes it virtually impossible to deny passport facilities to members of the Communist Party, U.S.A."

Do you have any reason to doubt that statement?

Mr. CHAYES. I just would say I don't know about that statement, and I think we will have to wait and see what the experience is before we can say. Thus far, we have withdrawn a number of passports from members of the Communist Party. We are engaged, as you know, in a hearing process to substantiate that withdrawal.

Mr. SOURWINE. What passports have been withdrawn?

Mr. CHAYES. Well, I don't know the list of names, but at least five have so far been withdrawn.

Mr. SOURWINE. Without the hearing procedures required under the regulations?

Mr. CHAYES. No. Let me state this more accurately. We have notified five people that we are canceling or withdrawing their passports.

Mr. SOURWINE. That you intend to.

Mr. CHAYES. Intend to. And notified them that they were entitled to hearings.

Mr. SOURWINE. And Elizabeth Gurley Flynn was one of them?

Mr. CHAYES. Yes; Elizabeth Gurley Flynn was one of them.

Mr. SOURWINE. You have not actually taken away anybody's passport yet, a Communist passport.

Mr. CHAYES. No, we haven't; that is correct.

Mr. SOURWINE. Now, Miss Knight of course has been head of the Passport Division for some time.

Mr. CHAYES. Yes, she has.

Mr. SOURWINE. Would you be willing to accept her statement about the effects of these new regulations on this matter which is her job?

Mr. CHAYES. I would certainly say that Miss Knight's opinion would be entitled to weight because of her experience and competence in this field; yes.

Mr. SOURWINE. You know, do you not, that the new passport regulations make it more difficult to deny a passport to a Communist applicant.

Mr. CHAYES. I would say that obviously any time that you have to act in accordance with procedures of this kind and on an open record, there will be occasions in which you can't prove the disability by such procedures. And then those passports won't be denied. Whereas with less stringent procedures, if you want to call them that, it might have been possible to act in such a way as to deny those passports.⁸⁰

A little later, Mr. Chayes attempted to strengthen the force of his argument:

Mr. CHAYES. * * * I would say, Mr. Sourwine, that we don't know yet whether it will be, in the end, harder or easier under these procedures or some looser procedures, because it might turn out, it might have turned out, if we had adopted the procedures—at least I believe it would have turned out, if we had adopted other procedures, that the Court would have construed the statute, as

⁷⁹ State Department Security Hearings, pt. 3, p. 229.

⁸⁰ Ibid., pt. 3, pp. 356-357.

we have here, as not permitting those other procedures, and that then our situation would have been that we had spent all of this time without being able to deny anybody a passport.

Mr. SOURWINE. Mr. Chayes, let's just look at that statement.

Assume that you had not issued any regulations, and that the policy was adopted of denying passports to any applicant whom the responsible official had reason to believe or knew he was a member of the Communist Party U.S.A. They would all have been denied. Initially, no Communist would get one. Then isn't it true Communists or applicants, non-Communist applicants, if any, who felt they were aggrieved by this refusal, would have their recourse in court?

Mr. CHAYES. Surely.

Mr. SOURWINE. They could go to court, and there would be a trial in the district court. They could have an appeal, or the Department could have an appeal. It could eventually go to the Supreme Court. It might take 2, 3, 4, 6 years, before your first test case was decided. In the meantime, not a Communist would have had a passport.

Mr. CHAYES. Not necessarily.

Mr. SOURWINE. And, Mr. Chayes, when you finally came down to the end, if the Supreme Court decided, as you have decided you think the law is, we would be no worse off than we are now. And the Congress would then be in a position to reenact the statute.

Mr. CHAYES. Not necessarily, Mr. Sourwine, because, as you know, there is interim and preliminary relief in all of these cases. It is quite possible that a court, the lower court, could have given preliminary relief against this kind of activity.

Mr. SOURWINE. You mean an injunction to require the issuance of a passport?

Mr. CHAYES. To require—if the lower court thought that, as I do, that the statute required this kind of proceeding, prohibition against denial of a passport on the basis of anything less than a full hearing. It is quite possible.

Mr. SOURWINE. You don't think the granting of a passport is a discretionary act by the Secretary of State?

Mr. CHAYES. I think the granting of a passport is a discretionary act, but that the Secretary must exercise his discretion in accordance with the law and with the Constitution. And we know from the *Kent* and *Briehl* cases that he cannot deny a passport to Communists, except on the basis of statutory authority.

Senator HRUSKA. But can he be mandamus'd by a court to issue a passport?

Mr. CHAYES. He was in the *Kent* and *Briehl* cases.

Mr. SOURWINE. There is statutory authority now which there was not in the *Kent* and *Riedel*.

Mr. CHAYES. It is not altogether clear. If the statutory authority is as we believe it to be a statute which requires a full hearing, then he has not denied the passport in response to statutory authority, unless he grants it full hearing. So that it doesn't seem to me by any chance—

Mr. SOURWINE. Well, the worst that would happen in any individual case who took it to court and went through all the supreme procedure is that he would get the passport. Isn't that true?

Mr. CHAYES. Well, I don't think you can say that we would be justified if the lower court opinions were adverse—I am not sure that we would then be justified in continuing to act on the other view of the statute.

Mr. SOURWINE. You mean you wouldn't appeal—having taken a course of action you wouldn't appeal?

Mr. CHAYES. Sure we would appeal.

Mr. SOURWINE. And you would wait until you had a final determination, wouldn't you?

Mr. CHAYES. I am not altogether sure about that, either. The question What has happened in the interim? would be a nice question—if we had preliminary—that is lower court decisions.

Mr. SOURWINE. If you didn't have regulations, no passport would go to a Communist unless it was ordered—no Communist would get a passport unless it was ordered by the Supreme Court that it be granted; isn't that true?

Mr. CHAYES. Not necessarily. That is, unless—the lower court—let's assume in the first place that the lower court made an order that said "State Department, give a passport." Now, even if we were going to appeal, the question whether that order would be stayed pending appeal is a separate question, and nobody knows whether that order would be stayed pending appeal. If it were not stayed pending appeal, then we would have a more general problem to see how we would act on cases that were not before the court.

Moreover, let me make one other point, which I think has not been fully developed here in the testimony.

You say the worst thing that could happen is that the particular applicant would get a passport. I don't believe that is so. That is, I don't think any of us know how the court decides on what matters affect the court's decision. One of the issues involved in this case is the power of Congress by statute to regulate passports, the issuance of passports, on these grounds. The worst thing that could happen in my judgment—and I speak now as a lawyer for the State Department, but more broadly I think as a fellow who has some interest in these matters—the worst thing that could happen is that the power of Congress to deny passports on these grounds, or to regulate the issuance of passports on these grounds should be denied, restricted, or cut back.

Mr. SOURWINE. Mr. Chayes, how can you say that when you have taken the position that no passport legislation was needed or desired?

Mr. CHAYES. I took the position that none was needed because I didn't think that it was wise for Congress to regulate passports at this time on those grounds, or at the time in 19—whenever it was—58, that I wrote the letter. I took it again last year. But that is quite a different thing from saying I don't think Congress ought to have the power to regulate if it should decide it was wise. And what I would like myself to do is to conduct—obviously, we are carrying out the law as we see it. But part of the motivation in our action is to conduct ourselves so as to sustain the power of Congress to act in this area.

Mr. SOURWINE. In an area that you don't want them to act in and don't think they should act in.

Mr. CHAYES. I don't think they should act now, nor did I think they should act 2 years ago. But that is a judgment that Congressmen are elected to make.

Mr. SOURWINE. You want them to have the power for the indefinite future.

Mr. CHAYES. I want them to have the power to make the judgment.

Mr. SOURWINE. Well, now, Mr. Chayes, suppose that the court ruled that Congress did not have this power. That would be the ultimate ruling, as you say.

Mr. CHAYES. That would be a very serious ruling I think.

Mr. SOURWINE. Now, back of that there could be many other court findings, such as a finding that Congress had to provide for certain procedure. But don't you see that by taking the position that the Department has taken, the chance of getting a court decision more favorable to the intent of the Congress that Communists be denied passports is foreclosed us?

Mr. CHAYES. Well, I see—I have no doubt at all that quite apart from the actual interpretation of the statute, as to which I understand that you disagree with us, and it seems to me that it is possible to disagree—although we believe that this is the interpretation. It is also possible to make a different judgment about the problem of litigating tactics.

I would only say again that this was part of the subject matter, discussions between us and the Department of Justice, and the people in the Department who will have control of the litigation. And this is the kind of judgment you have to make, and we made it.

Mr. SOURWINE. You think that the new regulations will reduce litigation?

Mr. CHAYES. No, I do not. I think we will very clearly get a court test probably of the *Elizabeth Gurley Flynn* case, but certainly at a very early stage—we will get a court test.

Senator HRUSKA. In that test, who will speak out for Congress?

Mr. CHAYES. I think the Department of Justice will speak out—

Senator HRUSKA. Not under the interpretation that you have been describing here, nor the motivation that you apparently have, which is that you don't think it wise to do it, and that you have very serious doubts as to the legality and constitutionality of Congress to assume and exercise that power. I still ask the question: Who under those circumstances will represent the Congress, and its view and its plain intent, and its very persevering goal, to try to get this job done?

Mr. CHAYES. Well, again, let me say, Senator Hruska, that we differ about what the intent of Congress was—at least insofar as it was embodied in the statute. I believe that the litigation which will emerge we will win, and I believe—

Senator HRUSKA. When you say "we," are you speaking of the Department of Justice now?

Mr. CHAYES. The Government will win.

Senator HRUSKA. The Department of Justice. Don't say Government, because you don't represent, in my judgment—I don't think you are doing a job of representing the viewpoint of the Congress. You can say the Department of Justice, if you want to, because you are part of that.

Mr. CHAYES. Let me put it a little differently, because also as a lawyer I should know enough not to predict the outcome of cases. But I believe that in the litigation that will emerge from this procedure, we will be in the best possible position to sustain a withdrawal of a passport, and in so doing, to sustain, as a constitutional matter, the power of the Congress to regulate the issuance of passports on the grounds established in the Subversive Activities Control Act.

Mr. SOURWINE. Can't you conceive, Mr. Chayes, that if you had not issued these new regulations, a court might not have required such procedure.

Mr. CHAYES. Oh yes, I think they might not. I think on the whole the act—and as we have testified before you in the past—I think that one of the differences between the situation I am now in and the situation that I was in 3 years ago, when I was a law school teacher, is that I could say on the one hand you can construe it this way, and on the other hand you can construe it this way. But in this situation you have to make up your mind. And my mind is made up this way. Now, I concede, as I have said before, that a reasonable interpretation of the act the other way might be made. It doesn't persuade me.

Mr. SOURWINE. Mr. Chayes, can't you see that since these regulations have been issued and the Department is proceeding under them, there is no possibility of a court decision which requires any less than what the regulations provide for?

Mr. CHAYES. That is true. On the other hand, if the Congress itself believes generally, as Senator Hruska says, that we have not correctly interpreted its intent, Congress could, by statute, compel us—

Mr. SOURWINE. And that is the only recourse that Congress has. You have, by the administrative issuance of these regulations, foreclosed Congress from ever having a court decision more stringent toward the Communist applicants than your regulations are—unless the Congress itself, by its act, amends your regulations or by statute invalidates them. Isn't that true?

Mr. CHAYES. Well, I don't think that is foreclosed. I don't think that situation is one of foreclosure. That is the way Congress acts. If Congress directs us by statute to do that, of course we will do that.

Mr. SOURWINE. Now, could you suggest language which would be any stronger and more precise than the language that Congress used?

Mr. CHAYES. Yes. I think the language—if Congress wishes to accomplish that result, the language in the bill I think that Congressman Walters introduced in the House and perhaps Senator Eastland has introduced here—I don't know—would accomplish that result, that is, it addresses itself specifically to the question of the procedural steps and states that confidential information may be used.

Mr. SOURWINE. But can't you understand, Mr. Chayes, that the question of action prohibited on the basis of belief is new ground under the law. That there was a possibility that you might find court decisions would hold that this was a subjective matter, and that the testimony of the individual as to his belief if uncontroverted would have to stand? And that the courts might have held that this would be a justification? Can't you see that Congress attempted here to use a new device which might get at the Communist applicants more stringently, and that the new regulations have foreclosed all possibility of a court ruling on that point?

Mr. CHAYES. Well, you say don't I see that the court might have supported us if we had done something else. And the answer to that, which I have given, is that I can conceive a court taking a different view of the statute than I did. You gentlemen here do. Other people that I have talked to on the Hill have. So that obviously I cannot say it is an inconceivable result, or even a necessarily unreasonable result.

On the other hand, both in my own consideration of this, and the Department of Justice in their consideration of it, concluded the statute didn't mean that, that it meant something else. Now, you say we deny the plain meaning of the terms. I don't think they did. I think we had a situation in which a construction was required. And we had to make it. And in making it, we had to follow our best lights. I think we did. I think—if I had to judge how a court would come out, although I agree with you that a court might come out the other way—if I had to make a judgment as a lawyer, which is part of what we had to do, I judge that they would come out to require it, as we did.⁸¹

⁸¹ State Department Security Hearings, pt. 3, pp. 357-361.

Jones, Chayes disagree on administrative brainwashing

Deputy Under Secretary Jones and Legal Adviser Chayes disagreed about the possibility of administrative brainwashing.

Mr. SOURWINE. Mr. Jones, do you think it is possible to brainwash a man by administrative order?

Mr. JONES. I would have to answer by: What do you mean by "brainwash"?

Mr. SOURWINE. Can you order a man administratively to forget something he knows?

Mr. JONES. Yes.

Mr. SOURWINE. You agree with that?

Mr. CHAYES. Well, I would say simply that that problem, right now, is much like the problem involved in a jury trial when there is evidence that is inadmissible, a question of the evidence being admissible or inadmissible, something like that, or where a question is asked and answered and then objection is made and the judge will tell the jury, "Gentlemen of the jury, you must disregard that answer in reaching your decision." That is exactly——

Mr. SOURWINE. Are you a trial lawyer, Mr. Chayes?

Mr. CHAYES. I have been in trials.

Mr. SOURWINE. As a trial lawyer, do you think the jury forgets it?

Mr. CHAYES. Well, let me put it this way, Mr. Sourwine: I know that there must be enough evidence that is proper in the record so that an appellate court can say that the jury could have reached this conclusion without considering that evidence, and I suppose that is the same problem we have here.

It may be, I say, physically impossible for a person to forget, that may well be true.

Mr. SOURWINE. That is right.

Mr. CHAYES. But on the other hand, it is possible to say that a person shall make his decision on the basis of a record which supports that decision——

Mr. SOURWINE. Making a decision is one thing, but belief or disbelief is another thing. Do you think that thought control by administrative order is possible or desirable?

Mr. CHAYES. Well, not only do I think it is not possible, I think it is undesirable, and I don't think it should be practiced.

Mr. SOURWINE. You would agree, then, you cannot by administrative order require a man to believe or disbelieve?

Mr. CHAYES. Not in the common parlance of the term.

Mr. SOURWINE. Well, now——

Mr. CHAYES. May I please finish? We are not talking about—we are not engaged in a conversation at a dinner table when we talk about belief in this sense. We are talking about beliefs—we are not even talking about—we are talking about reason to believe in a specific sense as used in a specific statute and we are construing technical language used in a statute.

Now the mere fact that those same words have a common meaning does not necessarily mean that the common meaning has to be taken as the meaning to determine the statutory construction.

Mr. SOURWINE. Mr. Chayes, wouldn't you agree with this, that if an official of the State Department has seen or knows of information from a reliable investigative agency of this Government that shows that Mr. X is a member of the Communist Party and cannot forget it by regulation as you have admitted, and is, in fact, convinced that the man is a member of the Communist Party and if, further, that information which came to him is sufficient if presented to a reasonable man to convince such a reasonable man, wouldn't you agree that in a case like that the man has reason to believe?

Mr. CHAYES. Not in the meaning of this statute, sir. And I would say the statute is very explicit in eliminating the subjective belief of the official. It does not talk about whether the official believes.

Mr. SOURWINE. Mr. Chairman, I would like to read into the record section 6 of the Subversive Activities Control Act:

"(a) When a Communist organization as defined in paragraph (5) of section 782 of this [code] title is registered, or there is in effect a final order of the Board requiring such organization to register, it shall be unlawful for any member of such organization, with knowledge or notice that such organization is so registered or that such order has become final——

"(1) to make application for a passport, or the renewal of a passport, to be issued or renewed by or under the authority of the United States; or

"(2) to use or attempt to use any such passport.

“(b) When an organization is registered, or there is in effect a final order of the Board requiring an organization to register, as a Communist-action organization, it shall be unlawful for any officer or employee of the United States to issue a passport to, or renew the passport of, any individual knowing or having reason to believe that such individual is a member of such organization.”

Mr. CHAYES. Well, that is the statute.

Mr. SOURWINE. There it is.⁸²

Chayes equates passport withdrawals and denials

Mr. Chayes tried to make the point in his testimony of June 19, that passport withdrawals and denials of passport applications stood on the same footing; but he retreated somewhat from this position under questioning:

Mr. SOURWINE. * * * Mr. Chayes, do cases involving passport applications by members of the Communist Party and cases involving proposed revocations of passports held by members of the Communist Party stand on the same footing procedurally?

Mr. CHAYES. We have had some thought about that, but we have treated them the same, and I think the regulations apply, in terms, say they apply both to withdrawals and applications.

Mr. SOURWINE. Do you think these two types of cases stand on the same footing so far as the law is concerned?

Mr. CHAYES. Yes, I do not believe that the Secretary—I believe that the Secretary may withdraw passports which he could not lawfully issue, but he cannot withdraw passports; that is, in this area. I take it—well, I think that is right. I do think they stand on the same footing.

Mr. SOURWINE. Do you think that any passport that the Secretary issued lawfully he may not withdraw?

Mr. CHAYES. No, that is not exactly what I said, because he may——

Mr. SOURWINE. I thought it was.

Mr. CHAYES. He may have issued a passport lawfully, which was lawful at the time issued, as, for example, these passports to Miss Flynn. It was lawful to issue it at the time. Indeed, he could not have withheld it at the time.

Mr. SOURWINE. Isn't it true, Mr. Chayes, in the case of granting a passport, there is a statutory prohibition, whereas there is no such prohibition or mandate with respect to the revocation of passports?

Mr. CHAYES. That is true. In other words, I do not believe the Secretary is compelled to withdraw these passports. I thought you meant the legal grounds on which he could withdraw them. And I think the legal grounds are the same. But we thought first of all that we would be derelict if we did not make some effort to act in the field of withdrawal. And secondly——

Mr. SOURWINE. You think the legal grounds are the same?

Mr. CHAYES. I think that the Secretary may withdraw a passport in any situation where to issue it today would be illegal. That is all I am saying. But withdrawal, as I say, is discretionary. Whether the Secretary chooses to withdraw it or not is another issue. As you say, he is prohibited by law from issuing the passport in those circumstances.⁸³

Lowenfeld construction of passport regulations

The subcommittee found Mr. Lowenfeld unconvincing in some of his explanations of what he considered the proper construction of the new passport regulations.

Mr. LOWENFELD. * * * we were careful to put in the regulations the provision that a preponderance of evidence, as in civil cases, but not all the rules of evidence governed the decisions.

Mr. SOURWINE. You were careful to put in the regulations a preponderance of evidence?

Mr. LOWENFELD. Let me not paraphrase the regulations. I must have a copy here somewhere.

⁸² State Department Security Hearings, pt. 3, pp. 321-323.

⁸³ Ibid., pt. 3, p. 376.

Mr. SOURWINE. You mean you were careful to require by the regulations that there be sufficient evidence under the preponderance of evidence rule to convince a reasonable man that the person was in fact a member of the Communist Party? Is that a fair statement?

Mr. LOWENFELD. "Supporting the denial of a passport" is what it says. Now, let me perhaps amplify this a little bit, without disagreeing that it is a fair statement.

Supposing we had evidence that a man is or was a member of the Communist Party in April and the hearing, or the application takes place in August. There would be a need for an inference; we would suppose that the board or the hearing examiner could make that inference. You always have a problem in this kind of statute. You have it in the Taft-Hartley Act statute and so on—how do you know the fellow is a member today, if nobody testified to what he did today.

So we were conscious of all of these problems.

Mr. SOURWINE. That is the basic difference between the case of the man who is prohibited from making an application because he knows his own status as of any given moment, and the person who is prohibited from granting an application, because that person does not know the status of the applicant from moment to moment. Isn't that true?

Mr. LOWENFELD. That is true; yes, sir.

Mr. SOURWINE. Now, it has been stated all along here that because the Congress acted in one way, and on the basis of one criterion with respect to the prohibition against applications, the same criterion should be applied with respect to denial of passports. You see now since there is a difference why there should be a difference in the provisions of the Congress with respect to the criteria in the two instances?

Mr. LOWENFELD. I am afraid you went just too fast for me.

Mr. SOURWINE. I wonder.

Mr. LOWENFELD. Well, I do not mean to duck the question, sir.

Mr. SOURWINE. Mr. Lowenfeld, the criterion of the statute with respect to the denial of passports was that a passport was to be denied if the officer who was charged with the granting or denial knew or had reason to believe that the applicant was a member of the Communist Party, U.S.A.

Mr. LOWENFELD. Yes.

* * * * *

Mr. SOURWINE. Mr. Lowenfeld, turning to page 2 of this letter, the paragraph number 2, in stating the requirement that the decision on a passport application may be made only on the open record, "the regulations simply spell out the traditional requirement in Anglo-American jurisprudence that a person seriously injured by governmental action shall be entitled to face his accusers and that the investigator or prosecutor shall not be the judge. See *Greene v. McElroy*, 360," and so forth.

Is it your understanding that that is what *Greene v. McElroy* decided?

Mr. LOWENFELD. Well, as you know, this uses the law review format—"see *Greene v. McElroy*." I think it is fair to state that the *Greene* case discusses these traditions of Anglo-American jurisprudence, and certainly speaks favorably of them, and casts doubt upon any scheme—that is perhaps the wrong word—but on governmental action that seeks to avoid that.

I suppose the specific decision of *Greene*—it is not a holding. The holding is that the Secretary of Defense was not authorized explicitly by the President, acting pursuant to a statute, to promulgate the specific regulation.

Mr. SOURWINE. Well, why did you cite the *Greene* case here if it is not authority for what you stated?

Mr. LOWENFELD. Well, it was our thought that certainly an opinion by the Chief Justice commenting favorably on this—these traditions, is authority for our view that anything getting away from this raises grave constitutional questions. We did not say in this letter, nor did Mr. Yeagley say, nor have we said here, that a contrary rule would be unconstitutional.

As you know, the Supreme Court, faced with this, has ducked the question. It ducked it in the *Dayton* case.

Mr. SOURWINE. The Court, in *Greene v. McElroy*, specifically disavowed deciding that issue, did it not?

Mr. LOWENFELD. It has ducked it several times.

Mr. SOURWINE. It specifically disavowed deciding it in *Greene v. McElroy*.

Mr. LOWENFELD. I believe that is right; yes.

Mr. SOURWINE. You knew that when you cited the case this way.

Mr. LOWENFELD. That is right.

* * * * *

Mr. SOURWINE. Do you agree that the statement that there is a requirement for confrontation confuses administrative action with judicial trials?

Mr. LOWENFELD. I am not sure how to answer a question as to whether something that we have stated confuses. I certainly recognize the distinction between governmental and judicial action. I think, on the other hand, it is fair to say that the response of the Government to a private citizen who says, "I would like to go abroad for private purposes," is governmental action.

Mr. SOURWINE. I did not say "governmental." I said the difference between the action involving a criminal prosecution and administrative action.

Mr. LOWENFELD. Yes, there is a difference, no question about it.

Mr. SOURWINE. You are aware that Mr. Justice Clark said the decision of the majority in the *McElroy* case and the dictum to which you refer confused administrative action with judicial action.

Mr. LOWENFELD. Oh, yes—Justice Clark said that.

Mr. SOURWINE. Do you agree with that? That was in connection with the right of confrontation. Mr. Justice Clark's view was that the right of confrontation is a right in a criminal action, not a right in an administrative action.

Mr. LOWENFELD. I think, sir, that it is difficult and perhaps not appropriate for me to comment—I did read both the majority and the dissent. And this was one of the cases which both the Justice Department and the State Department thought was relevant to consideration of this. I do not think I ought to say whether I personally agree or disagree with the decision in *Greene* or—

Mr. SOURWINE. I meant as a legal officer for the Department, as the man who wrote this letter.

Mr. LOWENFELD. Exactly. I am not—I think I would prefer not to say which way I would have voted on the decision.

Mr. SOURWINE. There is a practical reason, is there not, why there should not be a requirement of confrontation in administrative proceedings?

Mr. LOWENFELD. Well, I can see arguments in both directions. I would have thought that the *Greene* case, which involved a defense contractor, might—the decision in which the *Greene* case might jeopardize the security of the country perhaps more than the passport application of a private individual.

Mr. SOURWINE. I am talking about a practical matter. What I am trying to get at is this: The administrative agencies, by and large, do not have the subpoena power. Not having the subpoena power, they cannot provide the confrontation. Not being able to provide it, when by regulation they require themselves to provide it, they stultify themselves. Isn't that true?

Mr. LOWENFELD. Well, I think there is quite a bit in what you say.

Mr. SOURWINE. Hasn't the State Department found that to be true under these very passport regulations?

Mr. LOWENFELD. I was about to say we would hope, if it is appropriate, let us say it here—we would hope that the passport hearings would be given the right to compel witnesses to testify; yes.

Mr. SOURWINE. You are not recognizing that there is an error in the regulations; you want the regulations to stand and you want the matter to be cured by a congressional grant of the subpoena power to the State Department?

Mr. LOWENFELD. No. I do not consider—and again let me state that I am a small cog in this wheel, and not the author of the policy.

Mr. SOURWINE. Well, you, speaking of the Legal Department, wrote the passport regulations which required the State Department to do something that it had no power to do. Isn't that true?

Mr. LOWENFELD. No. We have been able to conduct a hearing, Mr. Sourwine. We have been able to get witnesses, documents, and so on. It has happened that we have not gotten—we have had some reluctant witnesses.

Mr. SOURWINE. You had arranged for certain witnesses to appear.

Mr. LOWENFELD. Yes.

Mr. SOURWINE. And those witnesses, namely, a New York Times reporter and an Associated Press reporter, either decided they would not appear or were told by their employers not to appear; isn't that true?

Mr. LOWENFELD. That is true.

Mr. SOURWINE. Do you know which?

Mr. LOWENFELD. I know the Times reporter—and I do not know the name of the Associated Press reporter. As you know, those hearings are conducted by the Passport Office and not by our office. I have never read the transcript.

Mr. SOURWINE. I understand.

Mr. LOWENFELD. I do know the Times reporter, yes. And I remember there was an AP reporter.

Mr. SOURWINE. Well, do you know whether the Times reporter refused to appear, or was he instructed not to appear?

Mr. LOWENFELD. I believe he consulted with the publisher, and I was a little bit unclear as to which it was finally. That is, whether he wanted to come and the publisher said "No," or whether he did not want to come and the publisher said, "Well, you do not have to." I do not know which. But he did consult with them, and it was decided not to.

Mr. SOURWINE. The State Department could not make him come, so you had to get different witnesses.

Mr. LOWENFELD. That's true.

Mr. SOURWINE. And the net result is that the only witnesses you can produce against a passport applicant are witnesses, (1) whom the Justice Department is willing you shall produce, and, (2) who are willing to come. Isn't that true?

Mr. LOWENFELD. Yes, sir.

* * * * *
Mr. SOURWINE. * * * You say in the last half of paragraph 2 of this letter, the numbered paragraph 2 on page 2:

"The Board of Passport Appeals will consist of senior Department officials outside the Passport Office who will have had no prior contact with the case and will thus generally have no knowledge about the applicant which they would have to forget."

What do you mean "have no knowledge about the applicant which they would have to forget"?

Mr. LOWENFELD. Well, there was—I believe Senator Dodd's letter talked about—

Senator DODD. Brainwashing.

Mr. LOWENFELD. Brainwashing, here. He said in his letter:

"The Passport Office, passport officials, and even the Secretary himself are told that they must forget what they know about an applicant."

Mr. SOURWINE. Well, they are, aren't they? Your point here is you are going to appoint people who never knew anything, so they would not have to forget. Your letter supports what Senator Dodd said, doesn't it? That the regulations require them to forget, if they know.

Mr. LOWENFELD. The fellow who decides will normally not know, except what he hears on the record. It is the same kind of thing as, you know, that you have in court cases all the time.

Mr. SOURWINE. In other words, you are going to pick for this Board of Review Board of Passport Appeals, people who know nothing about the case.

Mr. LOWENFELD. We do not ask them that. We have a permanent Board.

Mr. SOURWINE. And then you are only going to show them part of the evidence

Mr. LOWENFELD. No, sir. We have a Board which is not made up of people in the Passport Division. It may be a Deputy Assistant Secretary for European Affairs, or it may be, let us say, somebody of equivalent rank. We will have who are normally not in this part of the State Department.

Mr. SOURWINE. It isn't a matter of normality, is it?

Mr. LOWENFELD. They will not have seen the passport files, the security files.

* * * * *
Mr. SOURWINE. * * * Now you are talking about the Elizabeth Gurley Flynn case, are you not?

Mr. LOWENFELD. I was.

Mr. SOURWINE. Which is a passport-revocation case. This letter is talking about cases to grant passport applications.

Mr. LOWENFELD. I suppose it would be the same in every way. It is hard to see any difference between an application and a revocation on this issue.

Senator DODD. This interests me. As I understand it, the regulation or the law, rather, states that the Secretary shall not issue a passport to anyone whom he knows to be a Communist.

Mr. SOURWINE. That is right—or has reason to believe is a Communist.

Senator DODD. I do not think it is very hypothetical to suggest that the Secretary of State might know of an applicant who he knows or believes is a Communist. How can he shed the knowledge by assigning his task to someone else—whether he is a Federal Power Commission examiner or anyone else?

Mr. LOWENFELD. He does not shed the knowledge. The words "know" or "reason to believe" are construed, and they were construed in the advice from the Justice Department as meaning knowledge or reason to believe on the basis of a record.

Senator DODD. However he has his knowledge—the basis of the record or any other way, it is still his knowledge, is it not? How does he get rid of it? Supposing the Secretary of State had read the record?

Mr. LOWENFELD. Well, the Secretary or his delegate can properly consider that he does not have the knowledge or reason to believe which the statute makes a condition for the requirement that he deny a passport.

Senator DODD. I am just trying to understand it. To me, anyway, it appears that if I have knowledge—and it seems to me highly probable if I was Secretary of State I would have knowledge concerning some cases—I am somehow called upon under these regulations to divest myself of that knowledge. And it just seems to me utterly impossible so to do.

Mr. LOWENFELD. The question is how does the state of a man's mind become transmuted into a record upon which formal governmental action can be taken? And the answer is we do not psychoanalyze the Secretary or the issuing officer. We say put it on the record. That is the theory of it.

Mr. SOURWINE. That is the theory of the regulations.

Mr. LOWENFELD. Yes. And the theory of the Justice Department advice.

Mr. SOURWINE. It is not the theory of the law. The theory of the law is that if the responsible officer knew or had reason to believe that the applicant was a Communist, that officer would deny the passport. The applicant would then be left to whatever recourse he had in court. If he raised the question of the defense, the officer who had acted or refused to act could testify with respect to the state of his or her knowledge or belief.

Senator DODD. Isn't it possible to have knowledge of something and at the same time find it impossible to demonstrate as a matter of proof required by the law?

Mr. LOWENFELD. Yes, sir; it is.

Senator DODD. Well, then, what would you say about such a situation? Suppose I were the Secretary of State and I had knowledge which I could not demonstrate within the requirements of the law. What then should I do?

Mr. LOWENFELD. You should not, on that basis, deny to an individual citizen a right which is a constitutionally protected right. That does not mean you have to appoint him as your Under Secretary or even give him a job in the Department or buy his goods or any of those things. But it means that for this kind of situation you should not act upon this unprovable knowledge.

* * * * *

Mr. SOURWINE. At the bottom of page 2 in this letter you say:

"It is true that there may be circumstances in which passports are issued to Communist applicants. If they use the passports, they are, of course, liable to criminal prosecution under section 6(a) of the act."

In other words, you are going to give them a passport and then prosecute them for using it?

Mr. LOWENFELD. Well, of course, the prosecution is not in the hands of the State Department. But at that point, you see, again to prosecute them you would have to surface the evidence.

Mr. SOURWINE. Of course you would. It is perfectly clear. But this letter does not make it clear.

Mr. LOWENFELD. All that that suggests there is by issuing a person a passport under the circumstances we do not give him a license to go ahead or an immunity from the sanctions of section 6.⁸⁴

The Duimovich passports

Mr. Chayes appeared to be in some doubt about who issued the Duimovich passports; but he was quite sure about who was responsible in case the issuance involved a violation of law.

Mr. SOURWINE. Well, just as an example of this kind of a situation, two passports have recently been issued to a man and wife by the name of Duimovich. Did you issue those passports?

⁸⁴ State Department Security Hearings, pt. 3, pp. 340-347.

Mr. CHAYES. No, sir.

Mr. SOURWINE. Who did?

Mr. CHAYES. They were issued by the—I don't know, sir. All passports are issued by the Secretary, in effect, in the name of the Secretary.

Mr. SOURWINE. Did you sign written instructions calling for the issuance of those passports?

Mr. CHAYES. I don't think I did.

Mr. SOURWINE. Did you, Mr. Jones?

Mr. JONES. That name means something to me, Mr. Sourwine, but I cannot tell you at this juncture. I know there was discussion but whether this case came up to me, I cannot tell you.

Mr. SOURWINE. If anyone is to be charged with an offense under the Internal Security Act because of the issuance of those passports, who would be the proper person to be charged?

Mr. CHAYES. Would you please repeat that?

Mr. SOURWINE. If anyone is to be charged with an offense under the Internal Security Act because of the issuance of those passports, who would be the proper person to be charged?

Mr. CHAYES. In my opinion it would have to be the Secretary of State.

Mr. SOURWINE. The Secretary of State?

Mr. CHAYES. Yes, sir.

Mr. SOURWINE. And not any ministerial officer?

Mr. CHAYES. No, sir.

Mr. SOURWINE. Passports were then issued by order of the Secretary?

Mr. CHAYES. Yes.

Senator HRUSKA. Do I take it, when you say "the Secretary," that the only one person that can be charged for the wrongful or illegal issuance of a passport—obviously, the Secretary of State is the one, but he would act on information from someone else. Do you think these could be held guilty?

Mr. CHAYES. Well, I would say—obviously, I don't want this—let me put it this way:

This is a matter of speculative construction of the statute over which obviously the Department of Justice has the responsibility. In enforcing criminal statutes, they have the last say and therefore my words should be discounted. But I suppose a person who had acted under orders of a legitimate superior would not be committing a crime; but it might be that a policy officer who took first responsibility, knowing on the basis of evidence available in a public hearing that the person was a Communist, that a policy officer who took responsibility for those instructions; that is, directing the issuance of a passport, but not as high as the Secretary of State, might also be guilty of crime.⁸⁵

Deputy Under Secretary Roger Jones appeared careful not to give information respecting the basis of any reason he himself may have had to believe Mr. and Mrs. Duimovich to be members of the Communist Party, U.S.A.

Mr. SOURWINE. Mr. Jones, when you ordered the Duimoviches passports, had you read the FBI report on those individuals?

Mr. JONES. I don't recall any of the details. There was considerable discussion, but I don't recall the details.

Mr. SOURWINE. You don't even recall there was evidence they were Communists?

Mr. JONES. When you say, did I read the FBI report, I don't remember the FBI report was in the material. I know that at some point—I know there was summary material prepared in our own shop, but whether the FBI report—I don't know.

Mr. SOURWINE. Did you believe those summary materials to be reliable?

Mr. JONES. Yes.

Mr. SOURWINE. Did you then know that the Duimoviches had been active in the Communist Party up until 1960?

Mr. JONES. I don't know the details of the *Duimovich* case.

Mr. SOURWINE. You don't know—did you have any reason to believe that the Duimoviches were Communists or might be Communists?

Mr. JONES. I cannot answer that question, Mr. Sourwine, because I don't remember the details under which this thing came into my office.

⁸⁵ State Department Security Hearings, pt. 3, pp. 317-318.

Senator HRUSKA. Mr. Jones, if you had known, would you have signed the order?

Mr. JONES. This would depend on the nature of the case as presented to me, Mr. Chairman, under the regulations which were then in force and effect.⁸⁶

Mr. Lowenfeld also was rather careful about what he disclosed respecting a possible basis for belief that Mr. and Mrs. Duimovich were members of the Communist Party. Mr. Abe Chayes was almost equally vague, but less loquacious about it.

Mr. SOURWINE. Did you review the *Duimovich* case?

Mr. CHAYES. I—let me say I knew about it. I was in oral contact with it. I may even have cleared the orders to issue the passports, but I did not see the file, the underlying file.

Mr. SOURWINE. Did you review the files, Mr. Lowenfeld?

Mr. LOWENFELD. I saw the memorandum prepared in the Passport Office which enclosed a letter from the Passport Office, either from Miss Knight or her deputy, to the Internal Security Division, and the letter back. I read both documents. The Justice Department said there is no evidence we can disclose, and then those two letters with a covering memorandum from Miss Knight to Mr. Jones did come to me and I did look at it, and I think—I know I showed it to Mr. Chayes and I think personally took it to Mr. Jones—

Mr. SOURWINE. You used the phrase “no evidence we can disclose”——

Mr. LOWENFELD. I was speaking of the FBI.

Mr. SOURWINE. You did not mean to imply that the Department did not furnish information to the Department of State—you mentioned the Department of Justice has said no evidence can be in public——

Mr. LOWENFELD. We [Department of Justice] can withhold our consent under section 7(c) of the Executive order to allow the State Department to release such information as had been previously furnished.

Mr. SOURWINE. Did you at that time know what the Department of Justice knew about the Duimoviches?

Mr. LOWENFELD. All I saw was a summary prepared in Miss Knight's office; I don't think I ever read the FBI file.

Mr. SOURWINE. Would that summary reveal what the Justice Department Investigative Branch knew about the Duimoviches' connection with the Communist Party?

Mr. LOWENFELD. I don't know, but I remember there was a conclusion reached that there may have been some evidence of membership extending to a time not too far in the past.⁸⁷

Finally Mr. Chayes realized the basic weakness of the position in which he and Mr. Lowenfeld were placing themselves, and volunteered this statement:

Mr. CHAYES. Again—and I don't want the record to make it seem as though we are evasive—I think we all knew there was material in the Justice Department files, or there would have been no reason for making the request of the Justice Department about disclosure if there had been none. So I knew that, I did not know what it was exactly but I knew there was something.⁸⁸

Chayes stops withdrawal of Flynn passport

It was Mr. Chayes who stopped a move by the Passport Division to withdraw the passport of Elizabeth Gurley Flynn, a top Communist Party functionary:

Mr. SOURWINE. Mr. Chayes, from the chronology furnished by Miss Knight, and now in our record, it appears that on November 1 of last year the Passport Division requested the Immigration and Naturalization Service to withdraw the passport of Elizabeth Gurley Flynn, and that on November 3, 1961, you and Mr. Yingling advised the Passport Division that it had no authority to withdraw the Flynn passport, the matter being one solely for the Department of Justice.

Would you explain that?

⁸⁶ State Department Security Hearings, pt. 3, pp. 318-319.

⁸⁷ Ibid, pt. 3, p. 321.

⁸⁸ Ibid, pt. 3, p. 321.

Mr. CHAYES. No, I do not quite think that was the basis of my advice. My advice was based on the fact that the legislative authority did not come into effect until there was a final order, and that was not until the 20th. And I did not think that we ought to instruct on withdrawal of passports until the legislation was in fact effective, because again I thought that would put the Department and the legislation itself into a seriously bad position.

Now, I may have said if the Department of Justice wants—after all, if there is an Immigration and Naturalization Service person who examines the passports—the Department of Justice has an enforcement responsibility. And the use of a passport, as you know, by a member of the party was also proscribed by the legislation. If the Justice Department had a different view, and felt in enforcing the statute—Miss Flynn, if you recall, was at that time abroad, and the question was, Would the passport be withdrawn as she reentered the United States? If the Justice Department thought it had an enforcement responsibility—that this was a prohibited use—I said I was not going to prevent them from enforcing the statute as they saw it. But I would not, on behalf of the State Department, issue instructions for the withdrawal of the passport before the act—before the order—had gone into effect.

Mr. SOURWINE. Was this opinion or instruction given orally or in writing?

Mr. CHAYES. I think it was.

Mr. SOURWINE. Orally?

Mr. CHAYES. I do not believe we had any paper on it.⁸⁹

The State Department finally did, on January 22, 1962, begin a proceeding for the withdrawal of Elizabeth Gurley Flynn's passport, but Mr. Chayes testified on June 19, 1962, that he had not yet examined the record in that case:

Mr. SOURWINE. Mr. Chayes are you satisfied with the record in the *Elizabeth Gurley Flynn Passport* case?

Mr. CHAYES. I have not examined the record.

Mr. SOURWINE. Are you aware that this record shows the futility of the present regulations?

Mr. CHAYES. I am not sure it does. I have not seen the record. I mean I do not—as I say, I have not examined the record. We have not gotten a decision yet. But I am sure we will have a decision soon. I hope the decision will be that Miss Flynn's passport is to be withdrawn. And then we will have further court proceedings.

Mr. SOURWINE. I recommend that you read it. I think you will find it a wonderful example of how attorneys for Communist passport applicants, or passport holders, will use the new regulation to stultify the Department of State.⁹⁰

Questioning respecting the State Department's power to confront passport applicants with the witnesses against them produced the following testimony from Mr. Chayes:

Mr. SOURWINE * * *

What I meant to reach by my earlier question, speaking of futility, was the matter of the production of witnesses.

Your regulations have put the State Department in an impossible position, because they call for the confrontation. And the State Department has no authority to subpoena a witness or otherwise force the attendance of a witness. You ran into this in the *Elizabeth Gurley Flynn* case, did you not?

Mr. CHAYES. Well, let me start by saying I do not regard the position as impossible, because I think we have—we have proceeded in the *Flynn* case itself—producing a live witness without subpoena.

Mr. SOURWINE. I will tell you why it is impossible.

Mr. CHAYES. But—

Mr. SOURWINE. Mr. Chayes, please, you wanted to take just one point at a time. The fact that you have been able to do something in one case does not go to the question of whether the procedure is impossible. It is the other way around. If you can show one case in which he cannot do it, then it is an impossible procedure. And you will agree, I think, that if there is testimony from an FBI inform-

⁸⁹ State Department Security Hearings, pt. 3, p. 368.

⁹⁰ Ibid, pt. 3, pp. 368-369.

ant against a certain applicant, and the FBI says, "All right, this informant may come in," then you are in the point where you are obligated to produce that informant or else you have to grant the passport.

Mr. CHAYES. No, I do not think that is so at all, sir.

Mr. SOURWINE. This is not so?

Mr. CHAYES. No, sir.

Mr. SOURWINE. All right.

Mr. CHAYES. We are obligated to produce evidence on the record which will induce the hearing officer, the reason to believe, knowledge or reason to believe, that the applicant is a Communist.

Mr. SOURWINE. Isn't it more than that? I just want to check, because we have talked to Mr. Lowenfeld about this. Isn't your criterion that you must show by a preponderance of the evidence sufficient to convince a reasonable man that the applicant is a Communist?

Mr. CHAYES. The regulations do talk about preponderance of the evidence. But the question is what preponderance of the evidence, showing what? And it does not say that the tribunal must be convinced by a preponderance of the evidence that the man is a Communist. What it says is it must be convinced by a preponderance of the evidence of the relevant facts—what are the relevant facts?—knowledge or reason to believe. Now, therefore, I do not think that the regulations prescribe that the hearing officer must be convinced by a preponderance of the evidence.

Mr. SOURWINE. You mean the issue at this hearing is whether the issuing officer had knowledge or reason to believe that the man was a member of the Communist Party?

Mr. CHAYES. The issue is whether the evidence adduced at the hearing, by a preponderance of the evidence, is enough to induce a reason to believe—yes, reason to believe.

Mr. SOURWINE. That is what I said a minute ago.

Mr. CHAYES. It is not——

Mr. SOURWINE. You are not being subjective about it. That is, you say the question is not whether the issuing officer had reason to believe.

Mr. CHAYES. That is right. It is a question whether the record produces reason to believe; yes.

Mr. SOURWINE. Then I stated it accurately. You say it is not a question of whether the hearing officer himself comes to believe.

Mr. CHAYES. That is right.

Mr. SOURWINE. Then I stated it accurately, did I not?

Mr. CHAYES. Well, if that was your former statement, I think we are in agreement, then. I do not want to argue with you.

Mr. SOURWINE. All right, Mr. Chayes.

Now, what efforts were made to get the New York Times and Associated Press reporters to testify as witnesses in the *Elizabeth Gurley Flynn Passport* case?

Mr. CHAYES. Let me say that I do not know exactly what efforts were made, because I have dissociated myself as a matter of policy. I know that some efforts were made, and some difficulties were had—that in the end one live witness appeared.

I would like to finish this up, because I want to finish it up with a request.

Let me say also that I think, or at least people told me who had examined the available evidence, that the record would have permitted a finding even without a live witness—that is, the documentary record would have been adequate.

Finally, it is true that the absence of the subpoena power raises difficulties in this matter. We have already considered, I think—I am not sure we have made a formal request, but I know Mr. Lowenfeld requested or stated when he was here the other day, and we are prepared to make a request—really we thought of doing it in connection with this reorganization of the bill reorganizing SCA—for subpoena power in connection with the passport hearings.

Mr. SOURWINE. Why do you think the State Department should have subpoena power?

Mr. CHAYES. I do not think it should have general subpoena power. But I think where it is required, as it is under the law, to act in a quasi-judicial capacity, on a matter which affects the rights or asserted rights of U.S. citizens, then it should have the power to——

Mr. SOURWINE. What law requires the State Department to act in a quasi-judicial capacity in this connection?

Mr. CHAYES. I believe that the Control Act does.

Mr. SOURWINE. Without your passport regulations, there is not a line in that act that gives you quasi-judicial authority or responsibility.

Mr. CHAYES. I do not think——

Mr. SOURWINE. You have given it to yourself under your regulations. Isn't that true?

Mr. CHAYES. I would suppose, Mr. Sourwine, that no matter what the regulations provide, even if you had gone back to the old regulations, which had a hearing procedure, as you know, that the Department would be acting in a quasi-judicial capacity, in the sense that it is deciding on a citizen's right to have a passport or his application for a passport, within a legal framework. So regardless of what the procedures are, it seems to me it is acting in a quasi-judicial capacity.

Mr. SOURWINE. Well, a quasi-judicial capacity involves an adjudication.

Mr. CHAYES. I think so.

Mr. SOURWINE. Can't you distinguish between adjudication and administrative decision?

Mr. CHAYES. Well, there are kinds of administrative decision which require more or less adjudication. I think this kind of decision, under these regulations—of if we had just taken over the old regulations in toto—would involve a very large element of adjudication.

Mr. SOURWINE. Do you think the State Department necessarily has an adjudicatory function here, and therefore it should have the subpoena power?

Mr. CHAYES. That is right, I do. In connection with this function, I do not want a broad subpoena power, but in connection with this function.

Mr. SOURWINE. Isn't it a fact that nobody recognized this problem until after your regulations had been issued, and after they had been issued and you found out you could not even get a New York Times reporter to come down and testify what he saw at a public meeting, because his paper would not let him, then you decided you needed the subpoena power?

Mr. CHAYES. I do not know whether his paper would let him or not. It is true the problem did not arise or occur to us until after we had experience with it.

Mr. SOURWINE. If you considered it before you wrote the regulation, the proper procedure would have been to come up to Congress and ask for the subpoena power.

Mr. CHAYES. I am not at all sure.

Mr. SOURWINE. And then you try to put Congress in a box where they have to grant it.

Mr. CHAYES. We give them a choice of granting it. They can act or not act as they choose. They are not in a box.⁹¹

Mr. Lowenfeld seemed to have something of a penchant for quoting Supreme Court cases as authority for propositions which they do not support. Thus, he quoted *Kent and Briehl v. Dulles* in response to the question whether the Constitution protects the right to have a passport.

Mr. SOURWINE. Is the right to have a passport a constitutionally protected right?

Mr. LOWENFELD. I would suppose the *Kent* case suggests that—particularly if you take it together with the provision in section 215 of the Immigration and Nationality Act, which makes it a crime to travel without one outside of the Western Hemisphere.

Mr. SOURWINE. Well, the *Kent* case may suggest it to you. But that was an opinion by Mr. Justice Douglas, and his holding was that there was no delegation of authority to withhold passports. And he said, "Any act of Congress purporting to do so would raise grave constitutional questions." But that is not a decision, is it?

Mr. LOWENFELD. I did not bring the case with me. I believe there is a statement——

Mr. SOURWINE. Page 129:

"Thus we do not reach the question of constitutionality. We only conclude that United States Code 1185 and title 22, United States Code, section 2115 do not delegate to the Secretary the kind of authority exercised here."

He said:

"The only law which Congress has passed expressly curtailing the movement of Communists across our borders has not yet become effective."

⁹¹ State Department Security Hearings, pt. 3, pp. 369-371.

Mr. LOWENFELD. If you permit me for a moment—I am sorry I did not bring the case with me. As I understand it, you can have a constitutionally protected right and still have certain restrictions.

For example, you have a constitutionally protected right to free speech, but we all know there are limitations on that. And I take it that what the Court did not decide in *Kent* is whether the Internal Security Act has or could constitutionally have restricted the right.

But the fundamental—perhaps you ought to ask Mr. Chayes—he is the Legal Adviser. I just work there.⁹²

In explaining the State Department's position with respect to the new passport regulations, Mr. Lowenfeld indicated he felt the Internal Security Act might be unconstitutional in its application to passports, and that lawyers for the Department of State had a duty to try to cure this disability.

Mr. SOURWINE. Mr. Lowenfeld, didn't you understand that Congress had passed a law which made it a crime for any official of the State Department to grant a passport to a person, knowing or having reason to believe that that person was a member of the Communist Party, U.S.A.?

Mr. LOWENFELD. That is what the statute said; yes, sir.

Mr. SOURWINE. And you did not think that that statute was enough justification for refusal of a passport? You thought you needed a regulation before you could refuse a passport to a Communist?

Mr. LOWENFELD. Let me say first that the decisions and so on in this field were not essentially mine. They were those of the Attorney General and the Legal Adviser. But as I understand it, the point was there is some doubt as to the whole—as to the constitutionality of the entire provision, of the whole ability of the Congress to restrict——

Mr. SOURWINE. You think it is your job as an administrative officer to raise a question of the constitutionality of an act of Congress?

Mr. LOWENFELD. Permit me, if you would, sir, to just finish my sentence. It was felt that there is some doubt as to the constitutionality of the entire section 6, that it was our duty, as lawyers for the Department of State, to sustain the Department's ability to regulate travel in this way, and that it was therefore our responsibility, when we exercise the power under the statute, to do it in the way least likely to provoke a successful challenge.

Mr. SOURWINE. Mr. Lowenfeld, don't you understand that if there had been no regulation and the act had been followed, every Communist applicant would have been denied a passport? That is true, is it not? There might have been litigation subsequently. But every Communist applicant would have been denied a passport.

Mr. LOWENFELD. Well, I hesitate to answer the question because it begs in a way the issues. That is, who is a Communist applicant? If we had simply said anybody whose application for a passport—let me start that sentence again. If we had said that we will do a name check on any applicant for a passport; anybody who hit a flag, when we do a name check—that is what I understand they do at the field offices—will be denied a passport, and we will simply send him a letter saying "Dear Mr. So and So, you are not getting a passport." Nothing said about a hearing, nothing said about a review. We would have had a lot of passport denials. We would have quickly had a lot of lawsuits. And the Department would not have come out of this very well.

Mr. SOURWINE. What is the worst that could have happened—that they would say the Department did not have authority to do that?

Mr. LOWENFELD. Well, I do not know what best or worst means, but I suppose that is a possible result; yes.

Mr. SOURWINE. Now, you issued regulations. Under those regulations don't you realize that most Communist applicants for passports are going to get passports?

Mr. LOWENFELD. I am really not one to judge that. Certainly Mr. Yeagley would be much more likely to judge that—be more expert at that.⁹³

Mr. Chayes' testimony of June 19 differed from the testimony given by Mr. Lowenfeld with respect to the possibility of curing, by

⁹² State Department Security Hearings, pt. 3, pp. 346-347.

⁹³ Ibid, pt. 3, pp. 338-339.

departmental action, the unconstitutionality of a statute, but he softened his expressions of difference.

Mr. SOURWINE. Mr. Lowenfeld gave us considerable testimony which boiled down to this—that the State Department had serious doubts about the constitutionality of at least section 6 of the Internal Security Act and felt that this should be corrected by regulations. Do you agree with this position?

Mr. CHAYES. Well, I read Mr. Lowenfeld's testimony. I would not myself interpret his testimony that way.

Mr. SOURWINE. Well, I do not mean to misinterpret it. How do you interpret it?

Mr. CHAYES. If you ask me do I agree with that position as a position, the answer is I do not think that describes our activity here. We sought to construe the statute in the way lawyers do when they are asked to give legal advice. We considered the internal provisions of the statute, the scheme of the statute, and of course we considered intervening cases in the Supreme Court—mainly in the Supreme Court—which have a bearing on construction of the statute. Having considered all this in the way, as I say, that lawyers do when they are asked to give opinions, we came to the conclusion that the statute as written requires a hearing of the kind that is prescribed by the regulations.

Mr. SOURWINE. You do not think that any unconstitutionality in the statute can be cured or helped by any regulation, do you?

Mr. CHAYES. Again, if the statute is unconstitutional in the sense that the court believes that Congress does not have the power to regulate the issuance of passports on this ground, obviously that cannot be cured by regulation. On the other hand, I would say, and I think there is an element of this in this—that is, we are anticipating litigation—the atmosphere in which the case comes to the court can affect the views of particular justices on that question.

Mr. SOURWINE. I see.

Mr. CHAYES. And the regulations can affect the atmosphere, yes.⁹⁴

What is the issue in a passport hearing?

The State Department's legal adviser was of two minds about the issue to be determined in a hearing on the question of whether a passport should be denied. When he testified on June 7, 1962, Mr. Chayes declared:

Mr. SOURWINE. * * * This procedure is in the nature of a trial?

Mr. CHAYES. It is a hearing.

Mr. SOURWINE. What is the issue to be determined?

Mr. CHAYES. The issue to be determined, whether the passport should be denied on the grounds specified in our regulation; namely, that the applicant is a member of an organization required to be registered under the act.

Mr. SOURWINE. And the issue, you are saying, is whether the applicant is a member of such organization?

Mr. CHAYES. Yes, sir; that is the only ground on which a passport can be denied.

Mr. SOURWINE. The issue is not whether there is reasonable ground to believe that he is?

Mr. CHAYES. Well, I suppose that is right, whether there is reason to believe.

Mr. SOURWINE. What does "reason to believe" mean?

Mr. CHAYES. Well, it can mean a lot of things, depending on the context in which it is raised. In this case the Justice Department and we, as well, have construed the words "reason to believe" to mean reason to believe on the basis of evidence that can be made available.

Mr. SOURWINE. Now, that is adding something; you have taken a larger phrase and construed it that way. I am holding it down just to those three words, "reason to believe."

Now, "reason to believe" could mean information or knowledge such as would cause a reasonable man to believe?

Mr. CHAYES. Yes.

Mr. SOURWINE. It could mean information or knowledge which would in fact cause the particular individual concerned to believe.

Mr. CHAYES. Yes.

⁹⁴ State Department Security Hearings, pt. 3, p. 374.

Mr. SOURWINE. And it could mean any factual information tending to induce belief.

Mr. CHAYES. Yes.

Mr. SOURWINE. Is there any other alternative?

Mr. CHAYES. Oh, it might—I suppose there are a large range of things which it might mean, depending on the kind of evidence that one regards——

Mr. SOURWINE. Well, these are not questions of the kind of evidence. We are just talking about the phrase “reason to believe,” when a man has reason to believe. If there is no information or evidence, obviously there is no reason to believe.

Mr. CHAYES. Yes, but——

Mr. SOURWINE. And if there is only a scintilla of information, we can still say there is not reason to believe.

Mr. CHAYES. Well, sometimes we have situations where there is reason to believe on the basis of very inadequate evidence——

Mr. SOURWINE. Suppose the man does, in fact, have information, is that reason to believe?

Mr. CHAYES. It might be so and not so, depending on the particular context.

Mr. SOURWINE. And if that is not so, then “reason to believe” would be such facts and information, such knowledge and evidence and information that would cause a reasonable man to believe?

Mr. CHAYES. That might be, or in certain kinds of situations, that reason to believe could be based on only the most highly probative kind of evidence and unless you have highly probative kinds of evidence you don’t have reason to believe, sir. I think we are dealing with a question of statutory construction, you just cannot make—it seems to me, and I of course defer to others—but in my view you cannot make categorical statements of that kind without taking the context into consideration.

Mr. SOURWINE. You cannot tell us what “reason to believe” means?

Mr. CHAYES. Not without the context.

Mr. SOURWINE. You cannot agree that there is a range of what it may mean?

Mr. CHAYES. Yes, sir.

Mr. SOURWINE. But the meaning must fall within this range as a maximum requirement of that range, it would be such information or knowledge as would cause a reasonable man to believe?

Mr. CHAYES. No, I would say that in some contexts the phrase might be interpreted as requiring only reason to believe on the basis of particular kinds of evidence produced in particular kinds of proceedings.

Mr. SOURWINE. Do you think that “reason to believe” might be construed as requiring evidence convincing beyond a shadow of a doubt?

Mr. CHAYES. I can see—I think it might in certain circumstances, yes, sir.

Mr. SOURWINE. As a standard for “reason to believe”?

Mr. CHAYES. I think that if you want—I think what you are saying, or what you may be saying—let me not interpret what you are saying. I would say that the test of “reason to believe” might in circumstances be satisfied by less than actual belief on the part of the person, that is, less than that, and “reason to believe” I suppose is designed to suggest that something less than an actual conviction on the part of the person is required.

On the other hand, I don’t think it says anything as to the question of the basis of that less than actual conviction. I think the phrase “reason to believe” goes not to the question of the evidence available, but to the state of the person’s mind, that is, is it actual belief, or is it something less than actual belief? But that state of mind may be reached depending upon the context on the basis of a variety of kinds of evidence.

Mr. SOURWINE. I agree.

Mr. CHAYES. It might be compared to something like telling the jury to disregard some evidence. Now, the same might be true in a “reason to believe” situation, depending upon the context in which the words are used.

Senator HRUSKA. May I ask where is that phrase, “reason to believe”?

Mr. CHAYES. It is in the statute, sir. The statute prohibits an officer of the United States from issuing a passport to anyone he has reason to believe is a Communist—excuse me, not a Communist—is a member of an organization required to be registered.

Senator HRUSKA. And what do the regulations provide in that regard, would you comment on that?

Mr. CHAYES. Yes, sir. The regulations provide that the passport must be issued unless on the basis of a full hearing the person has reason to believe that the person—the officer, that is, the officer has reason to believe that the person is a Communist.

Senator HRUSKA. Well, after listening to all of these descriptions of what “reason to believe” might be, could officer A have reason to believe at the end of a hearing that there is such identification with the Communist Party and officer B, hearing that same evidence, come to a different conclusion?

Mr. CHAYES. Sure; sure.

Mr. SOURWINE. The point is, Mr. Chairman, these regulations require that a man forget, or assume that he never knew, anything he learns which is not or cannot be made a part of the public record at a passport hearing.

Mr. CHAYES. That is not correct—it does not require him to forget, because, in the one case so far, there was a hearing officer who had not theretofore been a part of the case so he did not have anything to forget.^{95 96}

By extending the rights of confrontation and cross-examination to passport applicants, the Department of State has, by regulation, granted something which the Department is not in a position to give. The Department of State does not have the subpoena power and cannot, therefore, require the appearance of a witness who will not come forth voluntarily. The result is that under the new regulations, an applicant given the rights of confrontation and cross-examination as a prerequisite to withdrawal or refusal of the passport, may almost automatically become entitled to a passport when the Department is unable to produce some witness at the hearing. Experience under the new regulations is often embarrassing to the State Department in this regard. For instance, in a recent case, certain witnesses who had knowledge of Communist activity on the part of the applicant refused to appear. The State Department was powerless to require their presence and elicit their testimony, and had to offer substitute evidence through another. No final decision has been announced by the Department in this case as yet, but unless enough public information can be produced on which to base a denial, the outcome will be that the applicant will get a passport.

Already, in at least two cases, passports have been issued although the issuing officer in fact had reason to believe that the individuals involved were members of the Communist Party. Since the adverse information was confidential and could not be made available to the applicants, without jeopardizing the security of the United States, the Director of the Passport Office was ordered, by direction of the Secretary of State, to issue the passports.

As of January 1, 1962, passports outstanding included 547 held by known members of the Communist Party, of whom 30 were Communist Party functionaries. Of this total of 547, 368 were valid for travel to and from the United States as of the end of November 1961 and the remainder required renewal as of that date. Unless legislation is enacted to override the passport regulations which became effective last January and provide the Secretary of State with authority to deny passports to hard-core, active Communist supporters, little or nothing can be done on the basis of confidential information to prevent these individuals from traveling on U.S. passports.⁹⁷

State Department position shifted

The State Department position on passport legislation has shifted about 180 degrees sometime in the last 5 years.

⁹⁵ EDITOR'S NOTE.—In making this statement, Mr. Chayes appears to have overlooked the fact that a hearing officer is not a person authorized to issue passports.

⁹⁶ State Department Security Hearings, pt. 3, pp. 315-317.

⁹⁷ See Elizabeth Gurley Flynn testimony, appendix, pt. 3.

Mr. John Hanes, then Administrator of the Bureau of Security and Consular Affairs, testified in April of 1959 that legislation was "essential," and that "active American Communists should no longer be allowed to use a gap in our laws to permit, and even to help, their travel abroad, which is itself so essential to the successful operation of their conspiracy."⁹⁸

Mr. Hanes referred to his statement a few days earlier in a speech to the Chicago Council of Foreign Relations, in which he said that "any legislation concerning denial of passports to Communist supporters would be meaningless and would not achieve any purpose if it prohibited the Government from using confidential information."⁹⁹

But on June 19, 1962, Mr. Chayes testified that, at a meeting of interested officials from the State and Justice Departments with George Denney of the Senate Foreign Relations Committee, which was then studying passport legislation, he told Mr. Denney:

"* * * that we had been engaged in a study to see whether the administration should press for passport legislation of one kind or another, that we had come to the conclusion for ourselves that there was no need to, and that we thought it was best to let things remain the way they were, from the administration's point of view."¹

Miss Frances Knight, testifying as Director of the Passport Office, was unable to shed much light on this change in departmental policy.

Mr. SOURWINE. Miss Knight, after the Supreme Court decisions in the passport cases, do you recall that President Eisenhower called for congressional legislation to strengthen the hand of the Secretary of State with regard to his passport authority?

Miss KNIGHT. Yes, sir.

Mr. SOURWINE. What was the Department's position at that time? Was it in favor of passport legislation authorizing denial of passports to Communists?

Miss KNIGHT. Well, that is very hard to say, sir, because in the past 5 years there has been a great deal of shifting of position, and—

Mr. SOURWINE. You are aware that Mr. John Hanes came up and testified on two different occasions, and testified that the legislation was urgently needed—he supported the President's position, didn't he?

Miss KNIGHT. That is correct.

Mr. SOURWINE. Now, when did the Department's position change?

Miss KNIGHT. I don't think I can pinpoint the date of change.

Mr. SOURWINE. Were you aware that by early November of 1961, at least, the Department, or as a minimum, the Office of Legal Counsel of the Department had arrived at the conclusion that no action on passport legislation was needed or desirable?

Miss KNIGHT. I have heard that.

Mr. SOURWINE. You don't know.

Miss KNIGHT. I have not been told that definitely.

Mr. SOURWINE. Can you help the committee any further with regard to this change in position, when it took place?

Miss KNIGHT. Well, I believe the Department's position may have developed from the Department of Justice interpretation of the Supreme Court decisions and the law. I believe that there have been knowledgeable persons in the Department who believed that under the present legislation they have the authority to deny passports to Communists.²

⁹⁸ Hearing on "Proposed Antisubversion Legislation," p. 275.

⁹⁹ Ibid. p. 297.

¹ State Department Security Hearings, pt. 3, p. 366.

² State Department Security Hearings, pt. 3, p. 246.

Bureaucratic Orders vs. Legislation

How a few bureaucrats took it upon themselves to change the State Department's policy respecting the need for passport legislation, to a position exactly the reverse of that previously enunciated by a President of the United States, was disclosed in the testimony of Mr. Abram Chayes, legal adviser of the Department of State:

Mr. SOURWINE. When did the State Department adopt the position that there was no need for any passport legislation?

Mr. CHAYES. I don't think the State Department has formally adopted that position at any time. We did consider, partly because when my own confirmation hearing was—when I was appearing in my own confirmation hearing, the committee, Foreign Relations Committee, raised the question of a review of the need for passport legislation, and partly because of other factors, we did consider with the Department of Justice whether the administration should develop or support a passport bill, or take steps to secure the enactment of a passport bill.

After some general consideration we—again I think it is fair to say Mr. Katzenbach was the man with whom I talked most frequently at Justice—we simply came to the conclusion that the administration, so far as we were concerned, should not. I think we all informed our superiors informally of that—that this is the place we got to, and other interested people—getting no contrary reaction, it simply remains in that state.

Mr. SOURWINE. When was this decision taken?

Mr. CHAYES. Oh, again, it is very hard for me to give you accurate dates. These discussions continued from the beginning of the new administration, I would say, until some time in the summer, maybe early fall.

Mr. SOURWINE. Of 1961?

Mr. CHAYES. Of 1961; yes, sir.

Mr. SOURWINE. Now, are you familiar with the testimony given up here by John Hanes, then Deputy Under Secretary of State?

Mr. CHAYES. I think I have read a part of the testimony; yes.

Mr. SOURWINE. You are aware that he testified—

Mr. CHAYES. He is not Deputy Under Secretary of State. He was—was John Hanes Deputy Under Secretary of State?

Mr. SOURWINE. I thought you said—what was his correct title?

Mr. CHAYES. I think he was Administrator of the Bureau of Security and Consular Affairs.

Mr. SOURWINE. He did not rank as an Assistant Secretary?

Mr. CHAYES. I am not sure whether he does or not. I think he does rank as an Assistant Secretary, but a Deputy Under Secretary is higher than that.

Mr. SOURWINE. I am sorry.

You are aware, are you, that Mr. Hanes testified not only that passport legislation was urgently needed, but that any passport legislation which did not give the Secretary of State the right to deny passports to Communists on the basis of confidential information would be worse than useless?

Mr. CHAYES. I am not sure that I know that he did, but I assume that he did if you say so.

Mr. SOURWINE. Well—

Mr. CHAYES. I know that he supported the legislation to that effect.

Mr. SOURWINE. He did say this, and it is in the record.

Mr. CHAYES. Yes.

Mr. SOURWINE. And I am wondering how you would square that up with the action of the State Department in issuing regulations—in other words, in doing itself what Mr. Hanes said if done by Congress would be worse than useless.

Mr. CHAYES. Well, Mr. Hanes was testifying in support of legislation. If Congress had legislatively told us to do that, we would have done it. I don't think Congress did tell us to do it, and I think we had to obey the statute.

Mr. SOURWINE. You don't agree with Mr. Hanes' testimony as to the uselessness of such legislation.

Mr. CHAYES. I don't think that our present procedures are useless; no.

Mr. SOURWINE. Do you remember a meeting held in your office November 7, 1961, to discuss the subject of passport regulations?

Mr. CHAYES. I don't remember it in the sense that I could date it, but we were concerned—actually we were concerned in June when the Court first upheld the Subversive Activities Control Act, thus bringing into play the provisions of section 6 for the first time. We were concerned to develop a way of administering that section. And I think our first activity began in June. Then, as you recall, Justice Frankfurter stayed the order until the fall, pending a motion—consideration of a motion for rehearing. At that point, the Berlin crisis came along. I spent some time abroad. Since I was personally involved in this thing, and wanted to be personally involved, the further activity was deferred.

Again, in the fall, I had to go abroad on another matter. I had asked that some work be started before I left. And as soon as I returned, which was about the first part of November, we did begin actively to work on developing these regulations. And I would suppose there was a meeting around then in my office. There were several meetings in my office.

Mr. SOURWINE. Would you be willing to give the committee the minutes of these various meetings?

Mr. CHAYES. I don't think there are any minutes. I would search for whatever records there are of those meetings.

Mr. SOURWINE. Well, it is the practice of your office to keep a record of such meetings—who was present, and the substance of what happened, is it not?

Mr. CHAYES. No, it is not my practice at all to do that.

Mr. SOURWINE. It is not?

Mr. CHAYES. I make a diary entry that says what I did. Sometimes I add who was there. And maybe just the subject matter of the meeting.

Mr. SOURWINE. I see.

Mr. CHAYES. Let me say there are some meetings obviously that we record. That is, if we are talking to a representative of a foreign government, we make a record of that. Also rather formal interdepartmental meetings of one kind or another, we may also record. This was an informal working meeting designed to get us ahead. And I don't think there is any record.

Mr. SOURWINE. All right. Now——

Mr. CHAYES. I would have no objection to the committee's having whatever records there are.

Mr. SOURWINE. Would you look, and if there are any, let us have them?

Mr. CHAYES. I certainly will.³

Mr. SOURWINE. Thank you.

I want to make it clear, this question is not asked primarily for the purpose of probing into the inner activities of the Department, but as a means of determining the persons who participated and who might be possible witnesses on the subject.

Referring to this meeting of November 7, 1961, in your office, do you recall such a meeting, among those present being George Denney of the staff of the Senate Foreign Relations Committee, Nicholas Katzenbach of the Justice Department, Nathan Siegel of the Justice Department, Raymond T. Yingling, Hugh Appling, Mitchell Suplinsky, Ed J. Hickey, Robert Johnson, and yourself, all from State?

Mr. CHAYES. First of all, let me say that I can't identify the meeting by date. I don't know. Nor can I identify a particular meeting at which all those—can say for sure all those people were present. I recall a meeting at which Denney and Katzenbach and some others from his office, Yingling and I, and some others from State, were there.

Mr. SOURWINE. The purpose of this meeting was to discuss passport regulations and/or legislation and the need for changes therein?

Mr. CHAYES. Well, since Denney was there, it probably was primarily for the purpose of talking about legislation. I don't think—I don't know whether we discussed regulations then at all.

Mr. SOURWINE. Didn't Mr. Denney at that meeting ask what should be done about passport legislation and didn't you reply that there was no need for any?

Mr. CHAYES. I think what I did reply to him was exactly what I said—I mean maybe not word for word—but I conveyed to him exactly the same idea that I conveyed to you just a few minutes ago—namely, that we had been engaged in a study to see whether the administration should press for passport legislation of one kind or another, that we had come to the conclusion for ourselves that there was no need to, and that we thought it was best to let things remain the way they were, from the administration's point of view.

³ No records were produced responsive to this request.

Mr. SOURWINE. And didn't Mr. Denney then point out that there had been no answer from the State Department to Senator Fulbright's letter to this subcommittee, but in view of the Department's attitude as you had outlined it, the Foreign Relations Committee would not press for a reply to that letter.

Mr. CHAYES. I think perhaps—there was some talk about the letter from Senator Fulbright. I am not sure that we didn't make some sort of a formal reply to that letter.

Mr. SOURWINE. But at least on the occasion of this meeting, you did give what amounted to an oral reply.

Mr. CHAYES. That is right. An oral disposition of the request.

Mr. SOURWINE. I had understood you to say earlier here that you did not think that the administration's decision with regard to the undesirability of passport legislation had been communicated to the legislative branch.

Mr. CHAYES. If I said that, I did not mean to say it. What I meant to say was that there was not a formal kind of decision in which the highest authorities in the administration acted. What happened was that we undertook a study of this kind; we reached more or less general conclusions that the administration should not seek legislation; we informed the people who were interested in the problem. And I did not mean to exclude—

Mr. SOURWINE. You implemented the decision very quietly.

Mr. CHAYES. Well, we simply informed people of our, sort of, conclusion, and did not get any negative—

Mr. SOURWINE. You made no public announcement. If you had, it might have caused quite a furor, because it would have been a sharp break with the position taken by the previous administration.

Mr. CHAYES. *We made no public announcement because we did not think there was a public issue.*⁴ (Emphasis supplied.)

There is a very clear choice and one which should not be too hard to make in this matter. Either we make no attempt at protecting the national interest by means of the passport sanction, reducing the U.S. passport to an identification document and issuing passports to anyone who can prove he is a citizen, or we revoke the existing passport regulations either by administrative action or by effective legislation which will reaffirm the will and the right of our Government to employ every possible means to protect the United States from the inroads of communism. The Congress must act in this matter if the State Department will not do so.

Passport for Communist agents?

The committee commends especially, for reading by those interested in the subject of passports, passport regulations, and passport legislation, the statement by Miss Frances Knight, Director of the Passport Office of the Department of State, beginning on page 229, part 3, State Department Security Hearings. We quote here a few highly important passages from this statement:

It is my opinion that the inconsistencies and arbitrariness of Passport Office procedures in denying passports in the past have had a considerable bearing on the confusion and dissension which clouded this issue in the last few years.

* * * * *

The more important and serious problem facing us today is the lack of passport legislation, the lack of a revised Executive order, and the lack of rules and regulations under which we can operate honestly, efficiently, and expeditiously. In the 7 years that I have been Director of the Passport Office, I have reported to a series of six administrators. This has not been easy and the lack of continuity has taken its toll out of good management and progress.

* * * * *

⁴ State Department Security Hearings, pt. 3, pp. 364-368.

There has never been a statutory delegation of authority to the Director of the Passport Office. While the Director is charged with the issuance of passports, the operation of the national office, its field offices, the direction of passport and citizenship work overseas, the regulations state that the Secretary of State appoints passport agents. This has never been the case, but there is, in fact, no delegation of authority to the Director to perform any of these duties.

There is no statutory definition of the U.S. passport. This omission is serious when it is necessary for the Passport Office to pick up a passport from the bearer for a valid reason. The question has been posed as to whether the passport is an official Government document, or does it belong to the bearer once it is issued?

* * * * *

From practical experience, I would strongly recommend that criteria for passport refusal and limitation be spelled out by statute to provide the Department of State with a general frame of reference.

* * * * *

At the time of the *Briehl-Kent* decision (July 16, 1958) we had approximately 65 passport applications on hand which would have been processed under the so-called Communist regulations. These involved alleged Communist Party membership as well as various other activities in support of the Communist movement. This does not mean, however, that all 65 applications would have been denied. In some cases, we were in the process of assembling additional data, and in others we would have asked the applicants for clarification of their activities. No doubt some of these applicants would have given us satisfactory proof that they were no longer active in the promotion of communism. On the other hand, some would have reached the tentative refusal stage. The Supreme Court decision resulted in granting passports to all such applicants.

I am very reluctant to give out figures, because it is so easy to slip into a numbers game. A qualifying word can change any figure, depending pretty much on what a witness is trying to prove. However, our records would indicate that from June 16, 1958, through December 31, 1958, 158 applications would have been processed under the Communist regulations had they been in force. In 1959, 175 would have been so processed and in 1960, the estimated figure was 117. In 1961, 96 applications came within this category.

* * * * *

The most important and significant changes (found in the new passport regulations effective January 12, 1962), however, established confrontation and the right to cross-examine witnesses, and barred the use of classified information to deny a passport. We pointed out that these changes nullified any practical and workable control of travel by American Communists.

* * * * *

We were assured that the Legal Adviser's Office was working closely with the Department of Justice on the wording of the proposed regulations.

On January 4, 1962, a final draft of the regulations was submitted to the Passport Office for concurrence, which we refused. The same day I sent a memorandum to Mr. Michel Cieplinski, Acting Administrator of the Bureau of Security and Consular Affairs, of which we are a component office. In this paper, I set forth my reasons for not concurring with the proposed regulations. Mr. Cieplinski supported the Passport Office position. On January 6, 1962, the Passport Office was informed that the Department of State position in favor of confrontation and cross-examination of witnesses in the Communist cases, was supported by the Department of Justice. At the same time we were advised that the Department of Justice interpretation of the law was binding and that we were to deny a passport only on the basis of information that could be disclosed to the applicant.

* * * * *

I made it abundantly clear at that time that most, if not all of our information regarding Communist Party activities is furnished by the FBI. In transmitting this information, the FBI specifically enjoins its distribution outside the Department of State.

Any regulation which states that we cannot consider confidential information makes it virtually impossible to deny passport facilities to members of the Communist Party, U.S.A., as provided by law. The only exceptions would be a handful of Communist Party functionaries on the national level who, because

of their recognized positions and operations, are more or less impotent insofar as their subversive effect is concerned. These individuals are symbols or figure-heads of the Communist Party and the glare of publicity over the years has dulled their influence to a great extent.

The real danger, however, lies in the issuance of passports to the relatively unknown, undercover Communists engaged in espionage, sabotage, and sedition. These are the people who can and do inestimable damage to our country at home and abroad.

* * * * *

I, as the issuing officer, am supposed to tailor my "reason to believe that the applicant is a member of a Communist organization" to data which can be made public regardless of how much classified information is produced by the FBI or other agencies of Government to the effect that the individual is a dangerous Communist. If the proof cannot be used in open hearings, with the right to cross-examine witnesses, I have been instructed to disregard it. In other words, I am expected to read the file, dismiss the classified information and base my decision on what can be best described as generalized public information. I maintain that no one can do this in good conscience and this places me in a difficult position between the law and the Government's expert "legal advisers who interpret the law. It is a fact that under the present regulations, the more treacherous and vicious and destructive the individual may be, the less likely it is that he will be denied a passport.

* * * * *

The public has been led to believe that, at long last, there are regulations in effect which will prevent the use of the U.S. passport for the benefit or promotion of world communism. There appears to be no realization that the few functionaries who may get caught in this very ineffective net are relatively unimportant.

* * * * *

I think there is a very clear choice and one which should not be too hard to make. Either we make no attempt at protecting the national interest by means of the passport, reducing it to an identification document and consequently issuing passports to anyone who can prove he is a citizen, or we develop effective legislation which, even though it may be challenged in the courts, will once and for all time resolve the question as to whether or not there actually exists the will and the right to employ every possible means to protect the United States of America from the inroads of communism. Only the Congress can make this decision.⁵

Comprehensive legislation in the passport field would do much to insure the continuance of the present high degree of efficiency in that area and would provide badly needed support for passport security.

It is foolhardy to presume that administrative action is all that is required to strengthen or sustain the Passport Office in its endeavor to maintain the security and integrity of the document. As a matter of fact, the record indicates quite the contrary. Over the years, there have been numerous administrative and political forays on the Passport Office which could only be interpreted as efforts to curtail and weaken its dedication to passport security. Administrative action is unpredictable. It can be punitive by arbitrarily imposing budget cuts affecting personnel and equipment, or by arbitrary reorganization, reassignment, or absorption. It could so weaken the Passport Office that it would become a rubber stamp for a temporary political philosophy or regulation.

The Director of the Passport Office has held the line against many attempted encroachments, but the time has come when basic passport regulations should be incorporated into law.

⁵ State Department Security Hearings, pt. 3, pp. 229-296.

The Career of William Arthur Wieland

William Arthur Wieland has had some important jobs in the Department of State. He was appointed special assistant for public affairs in the Inter-American Affairs Department on February 10, 1957, Director of the Office of Middle American Affairs on May 19, 1957, and Director of the Office of Caribbean-Mexican Affairs on September 7, 1958.⁶ He held these positions in the offices dealing with Cuban affairs during the period of Castro's rise to power.

While these positions were not publicly known as policymaking, they afforded opportunities for giving advice and recommendations to policymaking officials which were often decisive. The status and importance of these posts was indicated by William D. Pawley, former American Ambassador to Peru and Brazil and former Special Assistant to Secretary of State Dean Acheson. Mr. Pawley testified on September 2, 1960, in part as follows:

I worked for the Department of State 5½ years * * * I made it a point while there to try to find out how this thing works, where do the policy papers come from, how is it developed, who makes policy, and this is a very difficult thing to find out.

You can work there for years and not find that out. No one ever puts his name on a document. You never can pin anything down * * *

A policy paper develops, let's say, for the sake of argument, on Cuba, in Wieland's office, with the assistance of the desk officer for Cuba, Haiti, Dominican Republic, and if it is Mexico, they bring him in and prepare a policy paper. I will be in there as a special assistant to the Secretary of State with the rank of ambassador. I will get word one day there will be a policy paper discussion. * * * There will be 30 people sitting around from many branches of government and they will hand you a mimeographed document * * *

* * * there are no names or anything on it * * * nobody ever debated whether this policy paper itself had any justification or whether the thing they were driving at made sense.

* * * when it was all over, all those people would sign this document on this margin. Then it would go to the Under Secretary and he will see all these signatures on here, and obviously he is a very busy man, so he puts his on it. It goes up to the Secretary. That becomes a policy paper, a U.S. Government policy paper, and it is made by a man of very junior position.⁷

Wieland at conferences on Cuba

Mr. Wieland sat in on important conferences which discussed policy toward Cuba, as shown by the following testimony:

Mr. SOURWINE. Were you present in November 1958 at an interview between Ambassador Smith and Robert Murphy with Mr. Snow of the Department also present, at which Ambassador Smith told Mr. Murphy that there was convincing proof of Fidel Castro's pro-Communist ties?

Mr. WIELAND. I remember there was a discussion of that sort; yes, sir.

Mr. SOURWINE. Did you believe Ambassador Smith?

Mr. WIELAND. Yes, sir; that there were pro-Communist ties, yes.⁸

Importance of Wieland's position in the State Department

The decisive influence on his superiors, and ultimately on foreign policy, of a person in Wieland's position is highlighted by the testimony of several witnesses before the subcommittee. Said Robert C. Hill, former American Ambassador to Mexico, on June 12, 1961:

William Wieland, at the time I was Ambassador of the United States to Mexico, could be properly classified as my superior because he was in charge of the Cuban-

⁶ "The Biographic Register," 1960, Department of State, p. 776.

⁷ "Communist Threat to the United States Through the Caribbean," p. 10, p. 740.

⁸ State Dept. Security hearings, pt. 5, p. 645.

Mexican affairs * * *. He did come to Mexico on several occasions, accompanying Dr. Milton Eisenhower⁹ * * *. He accompanied the doctor on each of his trips to Mexico.¹⁰

Mr. Arthur Gardner, Ambassador to Cuba from 1953 to 1957, testifying on August 27, 1960, characterized Mr. Wieland as follows:

Senator DODD. In your opinion, did he play any part in Castro's rise to power in Cuba?

Mr. GARDNER. I think he had a strong influence on Rubottom.¹¹ But I haven't any way to prove it.¹²

Former Ambassador Earl E. T. Smith, in his testimony of August 30, 1960, added the following items:

Many of these people, who later became members of the first Cabinet of Castro were asylees in the United States. They had close contacts with members of the State Department.

To name a few: Urrutia, the first President of Cuba; Agramonte, the first Foreign Minister of Cuba; the first Prime Minister of Cuba, Miro Cardona. As a matter of fact, the first time that I met Cardona was after Batista had left the country. It was about the 4th of January of 1959 in the Presidential Palace. He turned to me and said, "I am a good friend of William Wieland, a very good friend of William Wieland" (p. 693).¹³

Mr. Smith identified Mr. Wieland as "Director of the Caribbean Division and Director of Mexican Affairs, in charge of San Domingo, Cuba, Haiti, Mexico," adding that, at that time, he had all of Central America in addition to these. Mr. Smith corroborated Ambassador Gardner's statement that William Wieland had a strong influence on Mr. Rubottom, with the reservation that "I do not believe that Rubottom believed that Castro was a Marxist, knew that he was a Marxist, and I do not believe that Rubottom knew that Castro was unfriendly to the United States,"¹⁴ Mr. Smith said that he had been briefed by Mr. Wieland before going to Cuba to take his post as Ambassador.

Ambassador Smith's nomination as Ambassador Extraordinary and Plenipotentiary was sent to the Senate on May 17, 1957, and he was confirmed on June 3, 1957. He was questioned August 30, 1962, regarding the briefing he received:

Mr. SOURWINE. Is it true, sir, that you were instructed to get a briefing on your new job as Ambassador to Cuba from Herbert Matthews of the New York Times?

Mr. SMITH. Yes; that is correct.

Mr. SOURWINE. Who gave you these instructions?

Mr. SMITH. William Wieland, Director of the Caribbean Division and Mexico. At that time he was Director of the Caribbean Division, Central American Affairs.

Mr. SOURWINE. Did you, sir, in fact, see Matthews?

Mr. SMITH. Yes; I did.

Mr. SOURWINE. And did he brief you on the Cuban situation?

Mr. SMITH. Yes; he did.

* * * * *

Mr. SOURWINE. I asked if you could give us the highlight of what Matthews told you.

Mr. SMITH. We talked for 2½ hours on the Cuban situation, a complete review of his feelings regarding Cuba, Batista, Castro, the situation in Cuba, and what he thought would happen.

Mr. SOURWINE. What did he think would happen?

Mr. SMITH. He did not believe that the Batista government could last, and that the fall of the Batista government would come relatively soon.

⁹ Dr. Milton Eisenhower, President Eisenhower's brother, was then Presidential Adviser on Latin American affairs.

¹⁰ "Communist Threat to the United States Through the Caribbean," pt. 12, p. 795.

¹¹ Roy R. Rubottom, Jr., then Assistant Secretary of State for Inter-American Affairs.

¹² "Communist Threat to the United States Through the Caribbean," pt. 9, p. 671.

¹³ Ibid., p. 693.

¹⁴ Ibid., pt. 9, pp. 692, 693, 697, and 703.

* * * * *

Mr. SOURWINE. What did Mr. Matthews tell you about Batista?

Mr. SMITH. Mr. Matthews had a very poor view of Batista, considered him a rightist, ruthless dictator whom he believed to be corrupt. Mr. Matthews informed me that he had very knowledgeable views of Cuba and Latin American nations, and had seen the same things take place in Spain. He believed that it would be in the best interest of Cuba and the best interest of the world in general when Batista was removed from office.¹⁵

The second time he appeared before the committee, Mr. Wieland had this to say about arrangements for the briefing of Ambassador Smith by Herbert Matthews of the New York Times:

Mr. WIELAND. * * * Ambassador Smith told the committee that I had arranged for him to be briefed by Mr. Herbert Matthews of the New York Times for his new position as Ambassador to Cuba. I believe the facts are as follows:

In May 1957 Mr. William P. Snow, who was then Deputy Assistant Secretary for Inter-American Affairs, suggested to Ambassador Smith that he get in touch with Mr. Matthews in New York for an informal "off the record" conversation on Cuban matters. Mr. Snow did this at the request of Mr. Rubottom, Assistant Secretary for Inter-American Affairs, in line with a suggestion made by Senator Javits of New York to Under Secretary Herter. I told this subcommittee on January 9 that it was my recollection that Ambassador Smith told me that he had been invited to have lunch with Mr. Matthews.

On careful reflection, I cannot state with certainty whether the Ambassador said he had been invited to have such a luncheon or that he was considering having lunch with Mr. Matthews and asked me if I could see any objection to this idea. I recall mentioning to Mr. Smith that in keeping with the usual practice of Ambassadors before departure for a post, he had been giving no interviews to the press concerning Cuban matters prior to his arrival at his new post. He replied that he knew several people on the New York Times and though it would be a good idea to meet with Matthews on the clear understanding that nothing would be said for publication.¹⁶

Mr. Wieland was questioned about this.

Mr. SOURWINE. Mr. Chairman, I would like to ask the witness if he has any objections to being interrupted during the course of this statement, or whether he would wish to read it through before asking questions?

Mr. WIELAND. No.

Mr. SOURWINE. May I inquire?

Senator DODD. Yes.

Mr. SOURWINE. Did you at the time you testified before have knowledge of this request of Mr. Rubottom to Mr. Snow, and Mr. Snow's request to Mr. Smith, or did you learn of that since you last testified?

Mr. WIELAND. I learned of that subsequently, sir. I did not know it at that time.¹⁷

Weiland's Functions Discussed

The testimony so far referred to establishes the following points:

(1) That Mr. Wieland served in an important advisory capacity to Dr. Milton Eisenhower, Presidential Adviser on Latin American Affairs, and, in fact, accompanied him on several trips to Mexico.

(2) That Mr. Wieland had considerable influence on Roy R. Rubottom, Jr., Assistant Secretary of State for Inter-American Affairs.

(3) That Mr. Wieland briefed ambassadors to Latin American countries.

¹⁵ "Communist Threat to the United States Through the Caribbean," pt. 9, pp. 682 and 683.

¹⁶ State Department Security Hearings, Pt. 5, p. 531.

¹⁷ Ibid., p. 531.

(4) That Mr. Wieland issued press statements on Latin American Affairs for the State Department.

(5) That he had access to full intelligence reports regarding Cuba and Latin America.

Wieland on his Policy Function

With reference to his share in the making of State Department policy, Mr. Wieland had this to say on January 9, 1961:

Mr. SOURWINE. Mr. Wieland, in your post as a Director of Caribbean Affairs, do you have any policymaking functions?

Mr. WIELAND. I have the function of recommending policy, yes, sir; subject to my superiors, of course.

Mr. SOURWINE. In the sense that what you recommend becomes policy if it is approved, you originate policy?

Mr. WIELAND. I may originate, initiate, and recommend. Of course, I could not simply apply my own policy; it must be approved.¹⁸

* * * * *

Mr. SOURWINE. Was it part of your function at any time to leak news about the State Department activity with respect to foreign policy in this country?

Mr. WIELAND. I could have it approved off the record and talked with newspapermen for the Department; yes, sir.

Mr. SOURWINE. You have given interviews with newspapermen on the basis of no quotation or no attribution?

Mr. WIELAND. Yes, sir.¹⁹

That Mr. Wieland's influence went high in the Department was evidenced by this bit of testimony (during discussion of the suspension of arms shipments to Cuba near the end of Batista's regime):

Mr. SOURWINE. You said you had something to do with that. Tell us about it. Tell us what it was, tell us what that incident was, and what did you have to do with that suspension.

Mr. WIELAND. We were at that time in consultation with the Cubans on the violations of the mutual security agreement.

Arms shipments were being suspended to Cuba until we could work out a solution through those consultations.

Mr. SOURWINE. In other words, the Secretary's policy statement had already been made, is that the case?

Mr. WIELAND. No, sir. The Secretary's policy instruction came later, but I was carrying out instructions from my superior, Mr. Rubottom.

I assumed that these had already come from the Secretary, but I can't speak of personal knowledge there, that shipments were not to go forward until we had completed our consultations and had received some satisfaction from the Cubans as to the violations which the Cubans had already committed.

Arms then were being—arms shipments were not going forward until I was notified—one day that this shipment was ready to go in New York, and in carrying out that policy of withholding those shipments I said, "We will have to hold this up until we can get a decision."

¹⁸ State Department Security Hearings, Pt. 5, p 516.

¹⁹ Ibid.

Mr. SOURWINE. To whom did you convey those instructions or orders in order to accomplish the suspension of the shipments?

Mr. WIELAND. To Mr. Snow, the Deputy Assistant Secretary at the time.

Mr. SOURWINE. Well, was he your superior?

Mr. WIELAND. Yes, sir.

Mr. SOURWINE. You made a decision which he implemented; is that right?

Mr. WIELAND. Yes, sir; as I recall that.

Mr. SOURWINE. Who did he have to pass the word to?

Mr. WIELAND. He would have had to discuss the matter certainly with Munitions Control in the Department. He would have had to discuss it, I am certain, with Defense; he would also have had to discuss it certainly with the Under Secretary, which one, Mr. Murphy or Mr. Herter, I don't know.

Mr. SOURWINE. Well, the Department itself didn't have any power or the authority directly to stop this shipment, did it?

Mr. WIELAND. Munitions Control; yes, sir.

Mr. SOURWINE. Directly would have stopped it?

Mr. WIELAND. Yes, sir.

Mr. SOURWINE. And that is an arm of the Department?

Mr. WIELAND. Yes, sir.

Mr. SOURWINE. So he could have simply given the order to Munitions Control; is that correct?

Mr. WIELAND. That might be, sir; I don't know the mechanics of that.

Mr. SOURWINE. You don't know how Mr. Snow implemented your decision?

Mr. WIELAND. That is right.

Mr. SOURWINE. But you do know that he did?

Mr. WIELAND. Yes, sir.

Mr. SOURWINE. The shipment was suspended and the suspension became, for all practical purposes, permanent?

Mr. WIELAND. And I believe that he referred the matter to the Secretary before the action was finalized.

Mr. SOURWINE. Now, by finalized, do you mean before there was any suspension at all or before the suspension became permanent?

Mr. WIELAND. Before the suspension of that particular shipment took effect.

Mr. SOURWINE. Before it was suspended at all?

Mr. WIELAND. Yes, sir.

Mr. SOURWINE. Well then, you didn't make a decision, did you?

Mr. WIELAND. No, sir. I could only make a recommendation.

Mr. SOURWINE. Well—

Mr. WIELAND. I can't make the decision. I can't stop the shipment myself.

Mr. SOURWINE. We have been talking here in terms, and I repeated it a couple of times, of you making a decision which was implemented by your superior, Mr. Snow.

Now we find that what actually happened was that, if I am correct, you made a recommendation or was that a tentative decision, was it a decision subject to being changed by higher authority or was it simply a recommendation for action by higher authority?

Mr. WIELAND. My recollection is, sir, that it was a recommendation to be taken by higher authority because I could not act on my own to stop a shipment.

Mr. SOURWINE. Was it the sort of thing that higher authority would automatically act upon on the basis of your recommendation or was it a matter requiring discretion further up?

Mr. WIELAND. I would say it would require discretion further up, sir.

Mr. SOURWINE. So you made a recommendation and passed in on to Mr. Snow?

Mr. WIELAND. Yes, sir.

Mr. SOURWINE. And you assume he consulted the Secretary or that echelon?

Mr. WIELAND. That is right, sir. I can't speak from personal knowledge, but I believe so.

Mr. SOURWINE. All you know then is that the recommendation you made eventually came to fruition in a suspension order?

Mr. WIELAND. Yes, sir.²⁰

²⁰ State Department Security Hearings, pt. 5, pp. 593-594.

WIELAND'S ROLE IN SHAPING U.S. POLICY TOWARD CUBA

When the question arose regarding the shipment of arms to Batista as against similar shipments to Castro, Wieland had a hand in the decision. Here is his testimony on February 2, 1962:

Senator EASTLAND. Who was responsible, now? What was your recommendation on the boycott of Batista, the refusal to ship him arms?

Mr. WIELAND. After the Batista government used our grant-aid equipment without prior consultation under the terms of an agreement with the United States, sir, and the matter had been taken up by my superiors with the Cuban Ambassador and by Ambassador Smith in Havana and the violations continued without any consultation with the Government of the United States, I recommended at that time that we withhold the shipments quietly, pending a solution of this particular situation.

Senator EASTLAND. All right. You recommended that we withhold a shipment of arms to Batista. You recommended withholding of the shipment of arms to Batista to fight a man that you know was a Communist and to prevent a Communist takeover in Cuba.

Now, is that not the substance of what you are saying?

Mr. WIELAND. Sir, in 1958 I did not know that Castro was a Communist. In 1958 there were other revolutionary forces at work in Cuba besides Fidel Castro. Fidel Castro came into power in January of 1959 on a wave or triumphal march across the country after other elements had already taken over the Government of Cuba.²¹

HOW DID WIELAND GET HIS JOB?

In tracing Wieland's career, the subcommittee was concerned with the circumstances under which he entered the State Department. This became the subject of considerable testimony.

Senator DODD. Who asked you in the State Department?

Mr. WIELAND. It was in the person at the time of Michael J. McDermott.

Senator DODD. Just when was that?

Mr. WIELAND. That was in 1941.

Senator DODD. How did he ask you? Did he write you a letter, did he call you up, did he pay you a visit? When and where?

Mr. WIELAND. I received a telephone call, sir, while I had just started my vacation from the Associated Press, from Mr. McDermott, asking me to come to Washington. * * * As I recall, it was June 1, it was June 1 or 2.

* * * * *

Senator DODD. What was Mr. McDermott's job then?

Mr. WIELAND. He was in charge of the Department's Press and Public Relations Bureau at the time.

* * * * *

Senator DODD. How much contact did you have with him [Sumner Welles] from 1934 to 1941 when Mr. McDermott invited you to join the State Department?

Mr. WIELAND. Well, I knew Sumner Welles as the representative of the United States in Havana, I attended an occasional press conference for background purposes that he gave newspapermen. * * * I saw him in his office as Under Secretary of State on an average, perhaps, of approximately once a week, sir.

* * * * *

²¹ State Department Security Hearings, pt. 5, pp. 650-651.

Senator DODD. Did you ever talk to Mr. Welles about joining the State Department?

* * * * *
Mr. WIELAND. * * * Mr. Welles once told me it would be a good idea for me to come into the State Department service. * * * That was in 1940. * * * After Mr. McDermott had discussed it with me the first time. * * * Mr. Welles at the time was Under Secretary, sir, and dealing very substantially with Latin American affairs. * * *

Senator DODD. Why do you think he [McDermott] suddenly called you up and Mr. Welles suggested * * *?

Mr. WIELAND. * * * I subsequently heard that there were a number of persons under consideration, but that they wanted to put me in the particular job in Brazil because I had learned Portuguese. * * * But it may have been because I had Cuban experience, or Latin American experience, that I was covering Latin American affairs for the Associated Press. * * * I did not apply with the Department of State.

Senator DODD. You did not have to take any kind of an exam?

Mr. WIELAND. No, sir. * * * Not for the auxiliary service, sir, they were for the career jobs in Foreign Service.²²

His application was marked "Birth Certificate Not Necessary."

Wieland Sworn in Before Applying

It is interesting that Mr. Wieland was sworn in as an employee of the Department of State 2 days before he filled out an application for employment with the Department. His testimony on this point, on January 9, 1961, follows:

Mr. SOURWINE. Now, you got this telephone call on the first of June 1941, from Mr. McDermott?

Mr. WIELAND. As I recall, it was June 1, yes, sir.

Mr. SOURWINE. And you came to Washington on June 4?

Mr. WIELAND. Yes, sir.

Mr. SOURWINE. And you filled out this application on June 4?

Mr. WIELAND. Yes, sir.

Mr. SOURWINE. I call your attention to the fact that the notation on this application is "appointed press attaché 2 June 1941." Do you know who put that on there?

Mr. WIELAND. No, sir.

Mr. SOURWINE. Did your appointment in fact date from June 2?

Mr. WIELAND. May I say here, Mr. Chairman, that if I was telephoned, as I recall, on June 1 and I probably was here on June 2, I then would have taken the oath on June 2.

Mr. SOURWINE. And then you filled out the application on June 4, 2 days later?

Mr. WIELAND. That may be, sir, but I cannot recall the circumstances here.

Mr. SOURWINE. That date on there is in your handwriting, is it not?

Mr. WIELAND. June 4.

Mr. SOURWINE. And you wouldn't fill it out with the wrong date on it, would you?

Mr. WIELAND. No, sir.

Mr. SOURWINE. You did put the right date on it?

Mr. WIELAND. Yes, sir.

Mr. SOURWINE. So we know the application was filled out on June 4?

Mr. WIELAND. Yes, sir.

Mr. SOURWINE. Didn't you know when you were filling out this application that you had already been appointed?

Mr. WIELAND. Sir, I had taken an oath of office prior to that, yes, they had sworn me in.

Mr. SOURWINE. They knew that you were already in the service?

Mr. WIELAND. Filling this out was just a formality. I asked, when do I start, and they said, you started when you took the oath.²³

²² State Department Security Hearings, pt. 5, pp. 495-597.

²³ Ibid., pp. 502-503.

Mr. Wieland was asked about the differential in salary between his post at the Associated Press and his post with the State Department. He had testified on January 9, 1961, that his A.P. salary was \$5,800 per year.²⁴

When Mr. Wieland returned before the committee on February 8, 1961, he asked permission to correct certain portions of his previous testimony, and in this connection stated:

MR. WIELAND. * * * When asked what my salary was at the time I left the Associated press to serve with the Department of State, I replied that I believed it was \$5,800 a year. I later ascertained that this was incorrect. My salary at the Associated Press at that time was \$3,120 a year. Of course, it was 20-some-odd years ago, and the standard of living had changed considerably, and my memory was simply inaccurate.²⁵

Mr. Wieland testified further that—

I would like to add that when I came to Washington in June 1941 to accept the job in the Foreign Service Auxiliary, on a leave of absence from the Associated Press, I had not discussed the matter of salary with anyone. I was informed after my arrival in the Department that the \$7,000 salary I would receive from the Government was based on the prevailing level for comparable positions and considerations that I would be serving abroad, and that it would be a nonpermanent position of uncertain duration.²⁶

A careful examination of Mr. Wieland's employment record would have disclosed that it was extremely spotty, to say the least. He testified on January 9, 1961, that, from December 1928 until 1937, after a period of illness, he was employed as follows:

I worked for a year with the General Electric Co. there. And then I worked for a year with the Cuban Electric Co. in Havana. Then I taught Spanish and English to Americans and Cubans * * * until I joined the Havana Post in late 1932. * * * I had only the 1 year of college (Villanova). * * * I believe she (Mrs. Clara Pessino) became both owner and publisher (of the Havana Post). * * * I was discharged. * * * Mrs. Pessino wrote me a letter saying because I had given unauthorized access to Associated Press files to an unauthorized person.²⁷

Thereafter he worked for 4 years, from 1937 to 1941, for the Associated Press.

Wieland Signed Up in a Hurry

For unexplained reasons, the application and entrance of Mr. Wieland into the State Department were marked by unusual haste, as if some individual or individuals were extremely anxious to secure for him an almost 100-percent advance in salary. This haste was such that ordinary checkup precautions were ignored. On his application form filled out on June 4, 1941, there was no provision for entering his former name, William Arthur Montenegro, which name he adopted upon the remarriage of his mother after his father's death.²⁸

He failed to list on his State Department application form his employment with Havas News Agency, International News and Universal News Services, Cuban Electric Co., General Electric Co. of Cuba, and the Morro Castle Supply Co. of Cuba. Asked why he omitted these data, Mr. Wieland replied: "Sir, the application I prepared that particular day was done in very great haste."²⁹

²⁴ State Department Security Hearings, pt. 5, p. 502.

²⁵ Ibid., p. 526.

²⁶ Ibid., p. 526.

²⁷ Ibid., pp. 488-490.

²⁸ Ibid., p. 486.

²⁹ Ibid., p. 629.

The application form asked whether he had ever been discharged or resigned voluntarily. Again Mr. Wieland pleaded as an excuse the haste with which the application had been filled out.³⁰ "I was told," declared Wieland, to "just put down what you can remember now and you can fill in the rest later."³¹

In October 1946, at a salary of \$4,400 a year, which involved a deep cut in pay, Mr. Wieland entered the career Foreign Service, after having passed the written and oral entrance examinations in 1945.³² He was recommended by former Ambassador Herschel Johnson.

Wieland soon got back his salary cut, and more.

The 1961-62 Biographic Register of the Department of State shows his rapid advance. (In this excerpt, salaries have been inserted in brackets.)

WIELAND, WILLIAM ARTHUR.—b. N.Y., Nov. 17, 1907; Villanova Coll. 1926-1927; U.S. Army 1927-28; corr. in Habana for Am. news ser. 1933-1934; newspaper ed. 1933-36; press corr. in U.S. 1937-41; app. special asst. at Rio de Janeiro June 4, 1941, (\$7,000 to \$7,200); FSO unclass., v.c. of career, and sec. in Diplo. Ser. Oct 24, 1946; 3d sec. and v.c. at Rio de Janeiro Nov. 4, 1946, (FSO-6 \$4,400.40); Nov. 13, 1946; 3d sec. and v.c. at Bogotá Dec. 23, 1946, (\$4,400); FSO-5 May 15, 1947; 2d sec. at Bogotá in addition to duties as v.c. July 9, 1947, (\$4,500); FSO-4 and cons. and cons. at Bogotá in addition to duties as 2d sec. April 21, 1949, (\$6,000); 1st sec. and cons. at San Salvador July 1, 1949, (\$6,000); 2d sec. and cons. at Rio de Janeiro Aug. 29, 1951, (\$6,930); FSO-3 and 1st sec. at Rio de Janeiro in addition to cons. Feb. 21, 52, (\$9,130); 1st sec. and cons. Quito, Aug. 4, 1954, (\$9,730); couns. Quito Apr. 11, 55, (\$9,730 to \$11,965 to \$12,600), O-2 Feb. 9, 56; spec. asst. for pub. aff., Inter-Am. Aff. Dept. Feb. 10, 57 (\$12,600); dir., Off. of Middle Am. Aff. (\$12,600); May 19, 57, Off. of Caribbean-Mexican Aff. (\$12,600 to \$14,190 to \$14,520) Sept. 7, 1958; O-1, cons. gen. Mar. 18, 60, (\$16,060 to \$17,250); Ger. lang. trng., FSI Oct. 16, 60, (\$17,250); Off. of Management, Feb. 4, 62 (\$17,650); m.^{33 33a}

WIELAND'S KNOWLEDGE OF CASTRO'S COMMUNIST RECORD

The scope of Wieland's foreign service will indicate that there was at his disposal, prior to Castro's seizure of power on January 1, 1959, ample evidence of Castro's Communist record. In order to avoid any confusion on this matter, we wish to make clear precisely what we mean—and do not mean—by a "Communist record." We do not propose to cite the exact unit or branch of the Communist Party of which Castro may have been a member at one time or another. The conspiratorial nature of the Communist movement makes such information practically unattainable. The approach to this problem must, of necessity, be more flexible. The available record of Fidel Castro shows him to be an individual who, knowingly and openly, prior to his assumption of power, aided Communist causes, as a willing tool of Communist policy. The interests of our own national security demand that we not be guided by strict, legalistic proofs of card-carrying party membership, but by overall trends (such as shown by Castro during his years of public life prior to 1959) and the preponderant weight of the evidence available. Reports on Castro's Communist ties, coming to the State Department from a vast number of responsible, official sources, were of sufficient impressiveness and volume to warrant complete distrust of and opposition to Castro.

³⁰ State Department Security Hearings, pt. 5, p. 629.

³¹ Ibid., p. 631.

³² Ibid., p. 497.

³³ State Department Biographic Register.

^{33a} The salary figures do not include allowances and differentials.

Testimony of former Ambassador Robert C. Hill is pertinent:

When I was assigned to Costa Rica in 1953 and 1954 we knew that "Che" Guevara was a Communist. He has been one of the most important leaders for promoting communism in Cuba and he was sitting right along with Fidel Castro from the first day that he came into power. So there is the second one.³⁴

* * *
Mr. HILL. * * * Castro and his affiliations were brought to my attention by intelligence representatives of the United States that were assigned to Mexico. They started talking to me about Castro and the problem early in 1957. I was very busy getting started in Mexico as the Ambassador and much of 1957 went by before I could review the developments in Cuba regarding Mr. Castro. The intelligence reports from our Embassy in 1958 started to pick up—and 1959—showing more and more indications of communism, procommunism—and Communists that were surrounding Fidel Castro in Cuba.

* * *
Mr. SOURWINE. Did you ever see any intelligence reports of the FBI to the State Department respecting Castro's Communist connections?

Mr. HILL. I worked very closely with the representatives of the FBI in Mexico. They were very cooperative with the Embassy. They were there with the full understanding of the Mexican Government. The reasons for their being in Mexico were well known to the Mexican Government. The representatives of the FBI told me of their concern over Castro and Cuba. They saw, from time to time, representatives of the FBI in Cuba. I was told by a representative of the agency that it was their understanding the reports had not reached the upper echelon of the Department of State.³⁵

As soon as I arrived in Mexico, in 1957. At my first staff meeting there was brought to my attention by senior officers in the staff meeting the fact that a serious situation was developing in Cuba. There were a number of individuals on the staff that were aware of Mr. Castro's background.³⁶

The information thus accumulated was made available to State Department personnel operating in the field of Latin America. Mr. Hill stated:

* * * we sent our reports to the Department of State, from the various attachés in the Embassy, including the Pentagon, the CIA representatives, the FBI representative * * *. Anyone that has direct responsibility in the area gets a copy of a dispatch or a cable communication from the Embassy that has something to do with the area that he has responsibility in. So I would only assume that our communications are passed over his (Mr. Wieland's) desk * * *. There was a continuous flow of information from the Embassy.³⁷

Mr. Hill called attention to certain specific items in the files of the State Department, which, he said, presented further details regarding the Communist associations and activities of Fidel Castro. His testimony speaks for itself:

I recall seeing an official Government document sent by the American Embassy in Moscow to the State Department. One of our second secretaries had attended a lecture * * * I believe that was in May 1959, and the Russians themselves identified Raul Castro as a Communist. * * * It is American Embassy, Moscow, dispatch No. 666, dated May 22, 1959. This document was entitled, "Soviet Attitude Toward Latin America." * * *

I worked very closely with the representatives of the FBI in Mexico. * * * The representatives of the FBI told me of their concern over Castro and Cuba.³⁸

³⁴ Communist Threat to the U.S. Through the Caribbean, pt. 12, p. 806.

³⁵ Ibid., pp. 807, 819.

³⁶ Ibid., p. 799.

³⁷ Ibid., p. 799.

³⁸ Ibid., pp. 800, 801, 819.

Wieland's Testimony on His Knowledge of Castro in Late 1957 Discussed

Mr. Wieland's statement, during his testimony on February 2, 1962, that he remembered discussing "the danger of Castro" with Samuel Shaffer of Newsweek magazine and others in late 1957 or early 1958, that he remembered "trying to point out that the press was glamorizing him (Castro) and painting him up as a popular hero and the champion of the underprivileged and the oppressed peoples, whereas in truth, *I considered that he was a greater threat to Cuba itself, as well as the United States, than the then Government of Cuba under Batista, which was the alternative*" (emphasis added) does not jibe well with Mr. Wieland's record of actions subsequent to 1957 and recommendations unfavorable to Batista and favorable to Castro.

After having been given the opportunity of examining the testimony of former Ambassadors Arthur Gardner and Earl E. T. Smith, Mr. Wieland testified as follows on February 8, 1961:

I was never an admirer of Castro. The more I learned of Mr. Castro's personality, statements, and programs, the more I became convinced that he was a mentally sick man, completely obsessed with his own ego and unscrupulous ambitions * * *. I recall in staff meetings in the State Department and in other conversations frequently expressing my opinion that too many people in this country and the entire hemisphere had been deluded by Castro * * *. This was during 1958 especially, and during mostly 1958, part of 1957.³⁹

Mr. Wieland was questioned as to his knowledge of Fabio Grobart, alias Jose Michelin, Jose M. Blanco, Aron Sinckowitz, Aaron Sundchein, Otto Modley, and Abraham Grobart, who according to the subcommittee's information first came to Cuba in 1924. Grobart was active in the organization of the Communist Party of Cuba. He was arrested in Havana and expelled in 1930. He reentered illegally from Germany in 1933 and was active in directing Communist Party activities during the anti-Machado revolution in 1933. In 1938 when the Communist Party of Cuba was legalized he became executive secretary under the name of Fabio Grobart. He returned to Cuba in 1960 and now is high in the Communist hierarchy ruling the island. Mr. Wieland testified that he did not know or know of this outstanding leader of the Cuban Communist Party.

He was examined as follows:

Mr. SOURWINE. You were asked about a man named Fabio Grobart.

Mr. WIELAND. I was asked a number of names; I don't recall that particular one.

* * * * *

Mr. SOURWINE. I did ask you if you knew a man named Fabio Grobart, and I would like to ask you how did you visualize the spelling of that name as I asked it? You did not know the man; all you heard is my pronunciation of it. How do you spell it?

Mr. WIELAND. G-r-a-b-a-r-t.

Mr. SOURWINE. Well, you corrected the transcript of your previous testimony?

Mr. WIELAND. In part; yes, sir.

Mr. SOURWINE. Well, you made all the changes you wanted to make, haven't you?

Mr. WIELAND. I saw it rather hastily, sir, and I didn't make all the changes I wanted to make. I merely corrected some of the more obvious errors that I could see.

Mr. SOURWINE. Well, you returned it to us.

Mr. WIELAND. Yes, sir.

³⁹ State Department Security Hearings, pt. 5, pp. 532-533.

Mr. SOURWINE (continuing). With your corrections? And with no indication that you wanted to make any more corrections?

Mr. WIELAND. That is correct.

Mr. SOURWINE. * * * Did you notice, in correcting the record, that the reporter had spelled that name G-r-a-b-o-t?

Mr. WIELAND. No.

Mr. SOURWINE. Well, this is incorrect. If it is a man you don't know anything about, it wouldn't have made any difference to you, see. Actually the name is G-r-o-b-a-r-t; I am spelling it, F-a b-i-o G-r-o-b-a-r-t; and my pronunciation probably was not very good. I am not saying anything against the reporter, but I think it is indicative that when you say the name G-r-a-b-o-t in the record it didn't click to make any change. For all you knew that was the name I asked you about.

Mr. WIELAND. It still doesn't ring a bell with me, sir

Mr. SOURWINE. I want to pursue this a little bit because, while the question of what happened in the record is of no particular importance, perhaps the question of Mr. Grobart is.

Knowing now that the spelling is F-a-b-i-o G-r-o-b-a-r-t, that name means nothing to you?

Mr. WIELAND. No, sir.

Mr. SOURWINE. Do you happen to have read Ruby Hart Phillips' book on Cuba?

Mr. WIELAND. I have read parts of it. I have not had a chance to read it completely.

Mr. SOURWINE. She refers to Grobart at pages 229 and 230 of that book as a Communist propagandist, a prominent Communist propagandist.

Did you know a man named Jose Michelin?

Mr. WIELAND. Not that I recall.

Mr. SOURWINE. This was an alias used by Grobart.

He also used several other aliases. I will mention some of them, and the question is, Did you know a man using any of these aliases?

Mr. WIELAND. Yes.

Mr. SOURWINE. Jose M. Blanco? Jose Michelin? Aron Sincjovich?

Mr. WIELAND. No.

Mr. SOURWINE. Aaron Sundchein, a German name?

Mr. WIELAND. No.

Mr. SOURWINE. Aron Sinkovich?

Mr. WIELAND. No.

Mr. SOURWINE. Aaron Sinckowitz?

Mr. WIELAND. No.

Mr. SOURWINE. Otto Modley?

Mr. WIELAND. No.

Mr. SOURWINE. Abraham Grobart?

Mr. WIELAND. None of these names are familiar with me.

Mr. SOURWINE. I will tell you it has been reported, as best we can get the information, that Grobart first came to Cuba in 1924. He was then fresh out of the Political University of Moscow.

He was very active in the organization of the Communist Party in Cuba. He was arrested in Havana and expelled in 1930, expelled from Cuba.

He was back in 1933, having reentered legally from Hamburg, Germany. Somehow he had wangled a reentry permit from the Cuban Government. That is another long story.

The Communist Party was involved in that in a devious way. This time he came back under the name of Sinckowitz.

He was active in directing Communist Party activities in Cuba, especially the anti-Machado revolution in 1933.

So far, do you know anything about this man?

Mr. WIELAND. No, sir; none of this rings a bell for me.

Mr. SOURWINE. In 1938, when the Communist Party in Cuba was legalized, Fabio Grobart was executive secretary under that name, Fabio Grobart. You didn't know him?

Mr. WIELAND. No, sir; not to my knowledge.

Mr. SOURWINE. He returned to Cuba in 1960. Did you know he had returned?

Mr. WIELAND. No, sir.

Mr. SOURWINE. Nobody reported this to you?

Mr. WIELAND. No, sir; not that I remember.⁴⁰

⁴⁰ State Department Security Hearings, pt. 5, pp. 561-563.

Wieland Should Have Known Grobart

In his various positions as Director of the Office of Middle American Affairs and, later, of Caribbean-Mexican Affairs, it would seem that Mr. Wieland should have known the name and something about the record of Fabio Grobart, longtime Communist leader in Cuba. But Wieland's testimony was persistent that he had never heard the name until the subcommittee asked him about the man. On February 2, 1962, he testified:

Mr. SOURWINE. Mr. Wieland, you will remember that you were questioned on two previous occasions about Fabio Grobart.

Mr. WIELAND. Yes.

Mr. SOURWINE. Do you want the record to stand that you never heard the name of Fabio Grobart before you were asked about him by this committee?

Mr. WIELAND. To my best recollection, I don't recall that name at all other than when it was mentioned here for the first time.

Mr. SOURWINE. Do you now know who Fabio Grobart is?

Mr. WIELAND. Yes; I read in one of the testimonies that he was a Communist in Cuba.

I do not recall having known him.

Mr. SOURWINE. You were told that here by counsel at the previous hearing, were you not?

Mr. WIELAND. Yes.

Mr. SOURWINE. But all the time you were on the Mexican-Caribbean desk, you never learned of him?

Mr. WIELAND. Not to my knowledge, sir.

Mr. SOURWINE. Although he was one of the leading Communists in Cuba?

Mr. WIELAND. I understand that.⁴¹

Further Wieland Testimony on Castro's Communist Record

The documentation regarding the pro-Communist record of Fidel Castro, which we have given above, is, of course, merely a fractional part of the material available to Wieland through official channels at the State Department. We list herewith the responses of Mr. Wieland regarding these matters on the three occasions when he appeared before the subcommittee. We cite first from his testimony before the subcommittee on January 9, 1961:

Chairman EASTLAND. Were you favorable to Castro during the revolution in Cuba?

Mr. WIELAND. No, sir.

* * * * *

Chairman EASTLAND. Did you know Castro was Communist?

Mr. WIELAND. No, sir.

* * * * *

Chairman EASTLAND. Why were you against him at first?

Mr. WIELAND. Because I regarded Mr. Castro as a very irresponsible, radical demagog who was a dangerous man, and certainly represented no good to the United States or to Cuba, sir.

Chairman EASTLAND. You knew about his pro-Marxist record?

Mr. WIELAND. Yes, yes indeed.⁴²

Mr. Wieland was asked:

Is there any doubt in your mind that the Cuban Government under Castro is a Communist-dominated government, at least?

Answer. No, sir; none at all.

Question. When did you reach the conclusion that it was?

⁴¹ State Department Security Hearings, pt. 5, pp. 614-615.

⁴² Ibid., pp. 504-506.

Answer. Sir, I think the evidence of growing Communist control of the Castro revolution became apparent about the time that the Castro group in the 26th of July was running its own behind-the-scenes cabinet, and throwing aside the recommendations for an agrarian reform program which the cabinet at that time was drawing up * * *. That was in June, as I recall, of 1959.⁴³

Later, in response to a request for a chronological, bird's-eye view of the development of the Department's policy toward Castro, he said:

At first there was no indication that the man was a Communist. There were, of course, ample indications that he was unstable, increasing indications that he was unscrupulous, increasing indications that he was tyrannical in his leanings, and these were substantially confirmed, I would say, in December of 1957 when Castro wrote a letter to the Cuban exiles in Miami, and in that letter he outlined a program which, if carefully read, indicated pretty clearly that he intended to establish a much more tyrannical dictatorship than Batista had.⁴⁴

In view of the voluminous data within the Department of State regarding the Communist associations and background of Fidel Castro prior to his assumption of power on January 1, 1959, the following colloquy from Wieland's testimony of February 8, 1961, is significant:

Mr. SOURWINE. And on the question of his being surrounded by Communists, did that knowledge come a little earlier? You said it didn't come until after he was in power.

Mr. WIELAND. That the Communists were infiltrating and encroaching on the ground surrounding him was apparent, I would say, around the second quarter of 1959, perhaps growing indications of it in the first quarter.

Mr. SOURWINE. But not apparent prior to January 1, 1959; that is, not apparent prior to the time he came down out of the mountains?

Mr. WIELAND. No, sir. The indications we had were that the 26th of July was still resisting Communist infiltration.⁴⁵

Wieland Said Fidel "Moderate" in February 1959 ^{45a}

Despite his previous statements regarding Castro's past Communist record, Mr. Wieland, according to his testimony of February 2, 1962, considered that in February 1959, Castro was still subject to influence by the more moderate elements in the Cuban Government. He said:

My view at that time was that Castro—Fidel Castro—wanted to hold power in Cuba, and if the moderate elements could swing him around by asserting more force in the country than the extremist elements and sufficient strength could be built up, he would go whichever way the strength lay to achieve his purposes, that there was a still more radical element that was bringing heavy pressures to bear on Fidel and the others in the more moderate group, trying to persuade them to take stronger action and more radical action, yes, and that there was a possibility that, if Castro were convinced that the moderate elements would dominate, he would restrain the more radical elements to achieve his own ends.⁴⁶

Raymond Leddy

Raymond Leddy identified himself before the Senate Internal Security Subcommittee on June 1, 1961, as former counselor for political affairs, assigned to the American Embassy at Mexico from July 1957 through December 1960. He testified first with regard to information received at the Embassy regarding Castro's Communist ties. He declared:

From the time of my arrival in July of 1957 we received information from some local sources in Mexico and from the Embassy, of course, in Havana and the Department of State.

⁴³ State Department security hearings, pt. 5, p. 571.

⁴⁴ Ibid., pp. 578-579.

⁴⁵ Ibid., pp. 586-587.

^{45a} The airplane trip was in August 1959.

⁴⁶ Ibid., p. 646.

The information from Mexico showed Castro's Communist affiliations prior to his departure.

Mr. SOURWINE. From where?

Mr. LEDDY. The departure from Mexico to invade Cuba, and also showed the support of the Communists in Mexico for Castro when he already was in Cuba.

* * * * *

We had been watching developments in Cuba from the Embassy in Mexico for many reasons, among the first of which was our responsibility for reporting on Communist developments in Mexico. The affiliations which Castro had in Mexico were known. When the Batista government fell, we received a great number of refugees from Cuba and many of them were known to officers in the Embassy who had served in Havana where many of them made their way to the Embassy for reasons wishing to inform us about developments in Cuba. We listened to and reported their information and it indicated to us a growing pattern of Communist takeover and we expected to see this reflected in the reports from the State Department.

* * * * *

I recall particularly that there was a summary prepared as of the end of June which was under the auspices of the intelligence community, which summarized the characteristics of the government and its tendencies after 6 months in power.

* * * * *

Mr. SOURWINE. And did this estimate indicate that Castro was pro-Communist?

Mr. LEDDY. It did.

* * * * *

Mr. SOURWINE. Did it indicate that he was surrounded by Communists?

Mr. LEDDY. It characterized his immediate advisers as either Communist or pro-Communist.

Mr. SOURWINE. Did it refer to "Che" Guevara as a Communist?

Mr. LEDDY. The exact words I don't recall but I do remember that it placed "Che" Guevara in the Communist camp without saying that he was a Communist.

* * * * *

Mr. SOURWINE. Do you know whether Mr. Wieland had access to this intelligence report?

Mr. LEDDY. I would feel certain that such an estimate circulated to the Embassy would be fully circulated to the responsible officers of the State Department inasmuch as they are primarily concerned and the State Department is one of the agencies of the Government which participates in preparing the estimates.⁴⁷

Available Intelligence on Castro

The record demonstrates that the Communist record of Fidel Castro was well known and officially accessible to Mr. Wieland as indicated by his own statements, the testimony of former ambassadors and intelligence officers, and the records of Government intelligence agencies.

AMERICAN AMBASSADORS GAVE WARNINGS

The State Department was kept fully informed by its ambassadors in Latin America regarding the inherent threat of Fidel Castro. Such information would certainly be required reading for Mr. Wieland as the Director of the Office of Middle American Affairs and later as the Director of the Office of Caribbean-Mexican Affairs.

Arthur Gardner

Arthur Gardner was Ambassador to Cuba in 1953. He testified before the Senate Internal Security Subcommittee on August 27, 1960, in part, as follows:

⁴⁷ Communist Threat to the United States Through the Caribbean, pt. 13.

Senator DODD. Mr. Gardner, when did you first have doubt about Castro; do you remember?

Mr. GARDNER. Well, I saw a manifesto that he had printed in Mexico, which stated his principles, what he was going to do. He was going to take over the American industries, he was going to nationalize everything.^{48 49}

Mr. Gardner reported his view on Castro to various officials of the State Department. He testified regarding these interviews:

Senator DODD. During these conversations with these several persons whom you have named, did you, from time to time, tell any one of them, or all of them, that Castro talked and acted like a Communist, and should not be supported by the United States?

Mr. GARDNER. Yes. But the purpose of these conversations always seemed to be * * * whether Castro carried a Communist card or not. We all know—I think everybody knew—that his brother, Raul, was a Communist. But they seemed to argue about it as if that was important.

Senator DODD. You mean the technicality of party membership was made a matter of importance rather than his general attitude?

Mr. GARDNER. Yes, that is right.⁵⁰

Earl E. T. Smith

Earl E. T. Smith was appointed Ambassador Extraordinary and Plenipotentiary to Cuba, June 3, 1957, and served until January 20, 1959. He thus had an insight into Castro's activities prior to his assumption of power on January 1, 1959. Mr. Smith testified before the Senate Internal Security Subcommittee on August 30, 1960, with reference to Castro's early record:

Fidel Castro landed on the south coast of Oriente in December of 1956 from Mexico with an expeditionary force of 81 men. Intercepted by Cuban gunboats and patrol planes, Castro and a handful of stragglers managed to ensconce themselves in the rugged 8,000-foot Sierra Maestra Range. * * *

His speeches as a student leader, his interviews as an exile while in Mexico, Costa Rica, and elsewhere clearly outlined a Marxist trend of political thought (p. 686).

* * * * *

After I had been in Cuba for approximately 2 months, and had made a study of Fidel Castro and the revolutionaries, it was perfectly obvious to me as it would be to any other reasonable man that Castro was not the answer; that if Castro came to power, it would not be in the best interests of Cuba or in the best interests of the United States (p. 689).

* * * * *

The Communists are too smart to infiltrate too openly at the beginning and disclose their hand. Many times when I was in Cuba I said that the 26th of July Movement, the revolutionary movement, was a Boy Scout movement, compared to the Communists, and that the Communists would apply the blotting paper to the 26th of July Movement as they saw fit, and they did sop it up as they saw fit (p. 692).

Castro was a revolutionary and a terrorist. From the time that he was a university student, he was a guntoter. I was informed by a diplomat that he had killed one nun and two priests in Bogotá during the uprising in 1948.

I checked very carefully into Mr. Castro's background shortly after I was there and talked to people in Cuba who were anti-Batista but who knew Castro well * * *.

There is no question that Castro was a revolutionary and a terrorist but whether he started out as a Communist or not, I doubt. I believe that the beginning of his 26th of July Movement was a leftist revolutionary movement * * *.

⁴⁸ "Communist Threat to the United States Through the Caribbean," pt. 9, p. 665.

⁴⁹ Having been granted an amnesty by President Batista in May 1955, Fidel Castro was compelled to leave the country. He was serving a term of 15 years for his part in the insurrectionary attack on Fort Moncado. He landed in Mexico in June 1955.

⁵⁰ "Communist Threat to the United States Through the Caribbean," pt. 9, p. 667.

But Fidel Castro did make a number of statements at Costa Rica and out of Mexico which showed clearly his Marxist line of thinking. He was also an active member, as a student, of the FEU (a radical group).⁵¹

The Communist line throughout the world is characterized by its hostility to private business, particularly American business enterprises. On this point, Ambassador Smith's testimony in regard to Castro's treatment of American business interests is most enlightening:

The revolutionaries under Fidel Castro demanded tribute throughout Cuba. By the fall or the late summer of 1958, they decided to also demand tribute from American business and American property holders.

As soon as I heard this, I wrote a letter to every American business in Cuba in which I clearly stated that Americans should not pay tribute, and I asked them not to give any money to the revolutionaries, that we were still doing business with a friendly government, and that as Americans we had no right to pay money to active revolutionaries who were trying to overthrow a friendly government by force.

This letter was approved by the State Department before it was sent out. Every week I regularly had a meeting in my Embassy, of some of the leading businessmen in Havana, and they assured me that the Americans were not paying money.

However, toward the closing days of the Batista regime, I believe some Americans did pay protection money. They were paying taxes to the Batista government, and were also paying taxes to the Castro people. I couldn't prove it. They wouldn't let me know.

It was unofficially reported that the revolutionaries demanded \$500,000 from a large oil company. Otherwise, the rebels said, they would blow up the refinery of this oil company. The American officials of the company refused to pay tribute. I give you this as an example of what took place.⁵²

Ambassador Smith did not keep his views about Castro to himself. One State Department official with whom he discussed Castro was Roy Rubottom, who was in charge of Latin American affairs and Mr. William Wieland's superior officer. Mr. Smith's testimony is revealing:

Senator DODD. Did you ever discuss Castro with Mr. Rubottom?

Mr. SMITH. Yes, on numerous occasions. * * * Once I had made up my mind, * * * that if Castro succeeded to power, that it was not in the best interests of the United States, and also not in the best interests of Cuba, I used every power within my means to try to have the State Department cooperate with the existing government and to adhere strictly to a nonintervention policy. * * * I further went on to say that we would either have to step in and support a broadly based provisional government or Castro would take over and if Castro took over, the only ones that would benefit would be the Communists.⁵³

Spruille Braden

Mr. Spruille Braden, former Ambassador to the Chaco Conference, to Colombia, Cuba, Argentina, and former Assistant Secretary of State, testified before the Internal Security Subcommittee on July 17, 1959. At the outset, Mr. Braden offered for the record an article from Human Events, describing his publicly expressed views as early as August 17, 1957, from which the following excerpt is given:

Mr. Braden says of Fidel Castro, leader of the fledgling Cuban revolt, that, according to official documents he has seen, "He is a fellow traveler, if not a member of the Communist Party and has been so for a long time. He was a ringleader in the bloody uprising in Bogotá, Colombia, in April 1948, which occurred (and obviously was planned by the Kremlin) just at the time when the Pan American Conference was being held in that capital, with no less a person

⁵¹ "Communist Threat to the United States Through the Caribbean," pt. 9, pp. 686, 689, 692, and 707.

⁵² Ibid., p. 696.

⁵³ Ibid., pp. 690, 706, 707.

than Secretary of State George C. Marshall present. The uprising was engineered and staged by Communists, and the Colombian Government and Colombia press subsequently published documentary evidence of Fidel Castro's role as a leader in the rioting which virtually gutted the Colombian capital. The appearance of this Cuban at the head of the recent uprising in his own country stamps the insurrection as another part of the developing Communist pattern of such subversion throughout Latin America." ⁵⁴

William D. Pawley

William D. Pawley was formerly Ambassador to Brazil and performed a number of important special missions for the State and Defense Departments. He testified before the subcommittee on September 2, 1960, describing the warning he gave State Department officials, including William A. Wieland, at a meeting held 6 weeks before Castro came into power. We quote his words:

I have told Wieland and other members of the Department of State, including Rubottom and members of the CIA, just that, prior to Batista's fall, in meetings in which I participated both in CIA and in the Department of State—and I told Wieland in the meeting of several people, "If you permit Fidel Castro to come to power, you are going to have more trouble than you have ever seen in your life." ⁵⁵

Robert C. Hill

Mr. Robert C. Hill occupied the post of Ambassador to Mexico from May 1957 to January 3, 1961, covering the entire time of Fidel Castro's coup in Cuba. Mexico afforded an excellent observation post as to events in Cuba and individuals involved. According to Mr. Hill:

The proximity of Mexico to Cuba was such that the agents coming from Moscow and some from China would go back and forth between the Soviet Embassy in Mexico City and Cuba. ⁵⁶

Mr. Hill was asked, "When did you first know or come to the conclusion that Fidel Castro was surrounded by Communists and was Communist dominated?" He answered:

Well, I had known about Castro and his activities in Bogotá during the Bogotazo. I believe that was in 1948. Also I was aware of his arrest in Mexico in June of 1955, later to be released in July of 1956. * * * As far as conclusive evidence of Fidel Castro and communism is concerned, I was convinced early in 1959 that he was not an independent agent; that he was being directed by Moscow and Peiping. * * * (based upon) intelligence reports that were available to me as U.S. Ambassador in Mexico City. ⁵⁷

Andres Perez-Chaumont (Cuban G-2 reports)

U.S. Embassy attachés in Mexico City were in contact with a number of reliable sources of information in that city and information was forwarded through Embassy channels to the State Department. Andres Perez-Chaumont, now export manager for the American Glass Tinting Corp. of Houston, Tex., was Cuban military attaché in Mexico in 1957. He held the rank of lieutenant colonel. He was in charge of Cuban intelligence in Mexico and Central America. He had been subdirector of the school for officers of the general staff in Cuba. He testified that he had, on many occasions, made available to our Embassy reports regarding Communist connections and activities of the Fidel Castro group. According to Mr. Perez-Chaumont, these reports spelled out the names, dates and places of activities by in-

⁵⁴ "Communist Threat to the United States Through the Caribbean," pt. 5, p. 248.

⁵⁵ Ibid., pt. 10.

⁵⁶ Ibid., pt. 12.

⁵⁷ Ibid., pt. 12.

⁵⁸ Ibid., p. 794.

dividuals associated with Castro. However, the American Embassy informed him that action had not been taken on these reports, even though Ambassador Robert Hill had complimented him for his efforts. He testified on March 29, 1961, in part as follows with regard to his reports to the American Embassy in reference to the record of Fidel Castro:

I would, for instance, make it very clear for the Government of the United States, the Communist connections of Fidel Castro and all his group of exiles. * * * They had close connections with the Communists, they were in close contact with the Czech commercial attaché, with the Russians * * *

I even turned in records, I remember. For instance, once there were about 80 of them that went to make a demonstration in front of the British Embassy when they decided to sell arms to the Cuban Government, when the United States decided not to. Then about 80 or 90—89 exactly * * * of the Cuban exiles in Mexico, made a demonstration in front of the British Embassy. * * * And they would start singing all the time the Communist International song.

Then the police came and put them in cars. They kept singing all the time, and when they got to the police station, all 89 of them kept singing. * * * They even made records of the song * * * and the names of everyone were taken. I turned all that over to the Embassy. * * * Some of them even belonged to the Communist Party. For instance, I have the Communist identification of Mrs. Guevara, who was later to become one of the most prominent people in Cuba. * * * ⁵⁸

Mr. Perez-Chaumont was in a position to furnish firsthand information with regard to Castro's leadership of the attack on Fort Moncado, and seizure from him, at that time, of certain records. He testified:

Fidel Castro decided to attack in Cuba for the first time in 1953, he went to Oriente Province, to Moncado, where I was in command. * * *

On the 26th of July, as a matter of fact, the day that gave the name to his movement, he went there with 295 men and he attacked us at about 5 o'clock in the morning * * * they were completely defeated.

Well, among the things we collected were some records. * * * They were going to be played in all the radio stations there as soon as the movement succeeded. In those records he spoke in his usual manner and his program was definitely outlined there. * * * It was all about the agrarian reform, taking away all the land and distributing it and all that, distributing the stock of all industries to the people. * * * And taking away all the idle money that was in the banks. * * * And nationalizing, of course, all foreign enterprises there, all services, electric company and all that sort of thing.⁵⁹

The witness then identified the following individuals in Castro's entourage as Communists: "Che" Guevara, Raul Castro, Vilma Espin, (Raul Castro's wife) and Haydee Santa Maria.⁶⁰ * * * ^{60a}.

Wieland and Castro Letter of December 1957

Mr. Wieland knew about Fidel Castro's letter of December 1957 to the Cuban exiles in Miami; but he did not regard it as indicating Castro was a Communist:

Mr. SOURWINE. Can you give us a chronological birds-eye view of the development of the Department's policy toward Castro? Initially it was not unfavorable, was it?

Mr. WIELAND. May I start by saying this: I don't recall talking to anyone in the Department who, at any time, saw Castro as the savior of Cuba.

At first, there was no indication that the man was a Communist. There were, of course, ample indications that he was unstable, increasing indications that he was unscrupulous, increasing indications that he was tyrannical in his leanings, and these were substantially confirmed, I would say, in December of 1957 when Castro wrote a letter to the Cuban exiles in Miami, and in that letter he outlined a

⁵⁸ Communist Threat to the U.S. Through the Caribbean, pt. 13.

⁵⁹ Ibid.

⁶⁰ Ibid.

^{60a} Haydee Santa Maria is married to Armando Hart, Cuba's Minister of Education.

program which, if carefully read, indicated pretty clearly that he intended to establish a much more tyrannical dictatorship than Batista had.

Mr. SOURWINE. This was in 1957?

Mr. WIELAND. This was in December 1957.

Mr. SOURWINE. While he was still in the Sierra Maestra.

Mr. WIELAND. While he was still in the Sierra Maestra.

In that letter, in essence, what he proposed was that the Cuba opposition accept his candidate for the Presidency, provisional President; abolition of all legislative functions, and their transfer to the Chief Executive. The placing of the reorganization of all the armed forces under his control through the 26th of July movement, the same with the police, the judiciary, and the labor unions.

This presented a pretty hair-raising picture of a dictatorship of a type that Batista had never achieved or probably never aspired to.⁶¹

Wieland Warned in January 1958

Gen. Jorge Garcia-Tunon, a Cuban military officer, placed in the record of his testimony on June 1, 1961, before the Senate Internal Security Subcommittee a certified translation of a letter he had sent to William A. Wieland in January 1958. The general's letter contained a detailed analysis of Fidel Castro's programmatic letter to the Junta For the Liberation of Cuba, dated December 31, 1957, and directed attention to the following significant points:

(1) * * * at no time is a pronouncement made against communism.* * *

* * * * *

(5) * * * It should be noted that Fidel Castro, in this program, proclaims himself the source of law and promises:

(a) Designates the executive power.

(b) Abolishes the legislative power.

(c) Creates new workers' leaderships, sweeping out the present ones, which means, simply, that the new workers' movement which he promises will have revolutionary overtones.* * *

(d) Dismisses wholly the judicial power.

(e) Liquidates the armed forces of the Republic * * * and promises to substitute them with elements of revolutionary extraction.* * *

(f) Abolishes the system of political parties. * * * Only the 26th of July Party, his own, will have access to the new structure of revolutionary regime he proposes.

(g) It should be noted that all the aims which come forth from the revolutionary program of Fidel Castro are directed toward the creation of a totalitarian regime. Compare "All power to the Soviets," said by Lenin in 1917 with "All power to the 26th of July Movement" said by Fidel Castro in 1958.⁶²

This clear-cut, publicly announced program, of which Wieland was apprised, furnished indisputable evidence of the definite Communist trend of Castro's views as early as December 1957. It is significant that Wieland knew of these at least as early as January 1958.

Communist Technicians

General Garcia was asked on June 1, 1961, how many Czechs, Chinese, and Russians were in Cuba. He said, "I believe that they exceed 15,000 persons," and explained that his figures were based on reports of agents in Cuba working with him and "also by the number of houses, apartment houses, and residences which have been taken over where Czechs, Russians, and Chinese live in those apartments * * *. They live with their families."⁶³

⁶¹ State Department Security Hearings, pt. 5, pp. 578-579.

⁶² "Translation From the Spanish Language, January 1958, Observations Regarding Fidel Castro's Letter to the Junta for the Liberation of Cuba," inserted into the testimony of Jorge Garcia-Tunon, Communist Threat to the U.S. Through the Caribbean, pt. 13.

⁶³ Ibid.

Castro and the Mexican Communists

General Garcia was asked what he knew about the relations between Castro and the Mexican Communists, during the period when Castro was assembling his forces. The general replied:

Dr. Oscar de la Torre, Ambassador of Cuba in Mexico, a friend of mine, when I visited him he told me that the Communists, that they were backing the political activities of Castro inclusive in those days and they had attacked the Cuban Embassy in Mexico with Molotov cocktails. The Ambassador showed me the damage that was caused * * *. Yes, they (the police) found Communist literature in the Castro headquarters * * *. The arrests and the raid was public * * *. I remember that he mentioned the name of the brother of Castro as a person who participated * * *.⁶⁴

Wieland Testimony on Garcia-Tunon Contacts

Regarding information given him by Ricardo Artigas Ravelo and Gen. Jorge Garcia-Tunon, Wieland testified:

Mr. SOURWINE. You have told us that you were visited at your office in Washington by Ricardo Artigas Ravelo and Gen. Jorge Garcia-Tunon?

Mr. WIELAND. Yes, sir.

Mr. SOURWINE. I will try once more to refresh your recollection. Is it not true that these gentlemen made as many as six or seven visits to your office during 1957 and 1958 for the purpose of giving you factual materials with respect to the Communist connections of Fidel Castro?

Mr. WIELAND. I don't recall that General Garcia-Tunon was in that often. But Artigas Ravelo—he was in several times, but I don't recall how many. Artigas was in more frequently.

Mr. SOURWINE. And their visits were for the purpose of giving you more factual material relating to the Communist connections of Fidel Castro?

Mr. WIELAND. Every now and then Artigas would leave some clippings or other material or notes of his own. Garcia-Tunon, I remember, wrote a letter, perhaps two, giving his views also on the Cuban situation and Fidel Castro being Communist; yes, sir.

Mr. SOURWINE. Did you take the position and express it to Artigas Ravelo and Garcia Tunon that the reports and documents and other material they were bringing you were of no particular importance and that even if it were true that Castro was a Communist, under the Atlantic Pact, the United States could not interfere in Cuban affairs and therefore could do nothing about Castro.

Mr. WIELAND. No, sir; that would not have been my position.

In the first place, the evaluation of the material we would be getting from them would be done by the intelligence research people. Anything of that nature that I would get and could not determine for myself would just normally pass on to the Cuban desk and from there to the intelligence area for conclusion or whatever summaries they wanted to make of the overall situation.

I couldn't say whether one or another was more valid than somebody else's, you see.

I did say, yes, that our position regarding the political situation in Cuba was one in which the United States could not intervene. This was the U.S. position.

Mr. SOURWINE. Because of our obligation under the Atlantic Pact?

Mr. WIELAND. No, sir; because of our hemisphere commitments, is what I would probably have said.⁶⁵

Wieland's Information From Other Sources on Castro

Another instance of information allegedly received by Mr. Wieland respecting Castro's Communist affiliations, which Mr. Wieland did not remember reporting to the State Department, was discussed during Wieland's testimony on February 2:

Mr. SOURWINE. You have told us that you knew Miguel Angel Quevedo, that you did know him.

Mr. WIELAND. Of Bohemia magazine, yes.

⁶⁴ Communist Threat to the United States Through the Caribbean, pt. 13.

⁶⁵ State Department Security Hearings, pt. 5, pp. 643-644.

Mr. SOURWINE. Yes, sir, director of Bohemia Libre, formerly published in Cuba and reestablished in New York in October of 1960.

How long have you known Mr. Quevedo?

Mr. WIELAND. I had known of him for a number of years.

The first time I remember meeting him was in New York, at Columbia University, when he received the Moors Cabot award.

Mr. SOURWINE. When was that?

Mr. WIELAND. That was near the end of 1958. It was the night, incidentally, that he received the award and received word from Havana that the Batista government had intervened his magazine. I think he returned precipitately to Cuba.

Mr. SOURWINE. Do you consider Mr. Quevedo a reliable person?

Mr. WIELAND. That was my only association with him as I can recall, but I know nothing to the contrary.

Mr. SOURWINE. So far as you know, he is entitled to credibility?

Mr. WIELAND. I would think so; yes, sir.

Mr. SOURWINE. Would you yourself believe him?

Mr. WIELAND. I would think so.

Mr. SOURWINE. Did you discuss Fidel Castro with Mr. Quevedo in November of 1958?

Mr. WIELAND. I well may have, sir. He was a Cuban in New York.

Mr. SOURWINE. Did not Miguel Quevedo warn you in November of 1958 that Fidel Castro should be prevented from gaining power? Did not Quevedo tell you that he had known Fidel Castro as a boy, that he knew him to be irresponsible and that he knew him to have Communist Party affiliations?

Mr. WIELAND. I don't recall his saying those things, sir. If he did, he would have said them very hastily, because as I say, this was at Columbia University the night he received an award and it was in a crowded room, with tables from one wall to the other and people clustering around those receiving these honors.

If he made that remark, I don't remember.

Pardon me, we had no private or separate conversation.

Mr. SOURWINE. You did not?

Mr. WIELAND. No private or separate conversation.

There was a general group there, discussing Cuba.

Mr. SOURWINE. Did you ever make a report to the State Department respecting any information of this nature given to you by Mr. Quevedo?

Mr. WIELAND. I don't remember that I did; no, sir.⁶⁶

Wieland admitted he saw a number of FBI reports about the Communist connections of Fidel Castro; but his testimony respecting such reports was somewhat equivocal:

Mr. SOURWINE. While you were in charge of the Caribbean-Mexican desk in the State Department did a number of articles come in to the Department dealing with the Communist connections of Fidel Castro?

Mr. WIELAND. Yes, sir; a number of FBI reports came in on all subjects, including that.

Mr. SOURWINE. Did you see any of these reports?

Senator EASTLAND. Including what?

Mr. WIELAND. Including Fidel Castro, sir.

Senator EASTLAND. The question was specifically dealing with the Communist connections of Fidel Castro.

Mr. WIELAND. Dealing with the Communist connections of Fidel Castro.

Senator EASTLAND. Did you see any of those reports?

Mr. WIELAND. Yes, sir; a great many of them.

Senator EASTLAND. Could you say that you saw all of them or most of them?

Mr. WIELAND. I couldn't say that, sir. I doubt that I would.

Senator EASTLAND. They should have come to your desk?

Mr. WIELAND. Not necessarily all of them, no. The FBI reports come in to the security area in the Department and they are routed to wherever it is decided they are the most required or used.

Senator EASTLAND. Would it not be required that they go to your desk?

Mr. WIELAND. Not necessarily, sir. They may go to somewhere above me or the Cuban desk. Cuban desk would normally go through this material and consult with the intelligence area of the Department of State and sometimes come to my attention.

⁶⁶ State Department Security Hearings, pt. 5, p. 645.

Mr. SOURWINE. You said you saw a great many of these reports, but you did not think you saw even a majority of them.

Mr. WIELAND. No, sir; that would be impossible.

Mr. SOURWINE. So if you saw a great many of them and did not see the majority, you must assume there were a great many more you did not see?

Mr. WIELAND. Yes, sir.

Mr. SOURWINE. You must know those FBI reports were consistent in referring to Castro as a Communist and his regime and his movement as a Communist regime and a Communist movement? That is true, is it not?

Mr. WIELAND. I don't recall them, sir, specifically.

Mr. SOURWINE. Did you ever see——

Senator EASTLAND. Wait a minute.

Do you recall an FBI report that you saw that characterized Fidel Castro as a Communist?

Mr. WIELAND. I recall many reports, sir, which would describe Castro as a Communist; yes, sir. But I can't say whether one or another at this time came through the FBI or what the source was. I could not identify this.

Mr. SOURWINE. Can you tell us whether you ever saw an FBI report while you were on the Caribbean-Mexican desk?

Mr. WIELAND. Yes, sir.

Mr. SOURWINE. Which referred to Fidel Castro as other than a Communist?

Mr. WIELAND. I don't know, sir.⁶⁷

Mr. Wieland failed to recall a CIA report relating to Communist activities at the University of Havana, and involving an inflammatory article signed by Fidel Castro which accused President Eisenhower of sending arms to Cuba:

Mr. SOURWINE. Are you aware that a CIA report relating to Communist activities at the University of Havana was routed over your desk in June of 1955?

Mr. WIELAND. In June of 1955?

Mr. SOURWINE. Yes, sir.

Mr. WIELAND. No, sir; I am not.

Mr. SOURWINE. You do not recall such a report?

Mr. WIELAND. No, sir—in 1955? I believe I was then in Ecuador. No, sir; I don't recall that.

Mr. SOURWINE. Do you recall a report referring to attempts by Cubans to distribute Communist Party pamphlets in May of 1955?

Mr. WIELAND. In Ecuador? I don't recall that; no, sir.

Mr. SOURWINE. I didn't say anything about Ecuador.

Mr. WIELAND. That is where I was stationed.

Mr. SOURWINE. You said you were in Ecuador. I do not mean that the report referred to activities of Cuban students in Ecuador, it referred to Cuban students in Havana.

Mr. WIELAND. I do not recall that.

Mr. SOURWINE. I tell you that there was such a report and one of the pamphlets the Communists were trying to distribute was what the report called an inflammatory article signed by Fidel Castro, which accused President Eisenhower of sending arms to Cuba. Do you not remember such a report?

Mr. WIELAND. No, sir.⁶⁸

Mr. Wieland could give no information with respect to a Cuban Army G-2 report on Castro and the Communists surrounding him, which reached the head of the CIA in Washington in 1957:

Mr. SOURWINE. Are you aware that a complete dossier on Castro and the Communists surrounding him which had been prepared by the G-2 of the Cuban Army under Batista was hand-carried to Washington in 1957 and delivered to the then head of the CIA, Mr. Allen Dulles?

Mr. WIELAND. No, sir.

Mr. SOURWINE. You were not aware of this?

Mr. WIELAND. No, sir.

Mr. SOURWINE. Were you aware that a G-2 dossier on Castro and Cuban Communists surrounding him never reached the Department of State?

Mr. WIELAND. I cannot answer that positively, sir. I have heard discussions of that document to the point that I don't know if I saw it or heard of it.

⁶⁷ State Department Security Hearings, pt. 5, pp. 642-643.

⁶⁸ Ibid., pp. 641-642.

Mr. SOURWINE. That was to be my next question, Mr. Wieland, whether you ever saw the document.

Did you know that a copy of this dossier was discovered in the files of the Bureau of International Research in 1961, still untranslated?

Mr. WIELAND. No, sir.

Mr. SOURWINE. Did you know that that was not the original report, but a carbon or a copy which had been supplied to the Department by Ambassador Farland from the Dominican Republic?

Mr. WIELAND. No, sir.

Mr. SOURWINE. You have no knowledge as to what happened to the original report?

Mr. WIELAND. No, sir.⁶⁹

Other Reports Wieland Didn't Remember

Wieland was further questioned about reports in the State Department concerning Communist activity among Castro forces in Cuba.

* * * * *

Mr. SOURWINE. While you were in charge of the Caribbean-Mexican desk in the State Department did a number of articles come into the Department dealing with the Communist connections of Fidel Castro?

Mr. WIELAND. Yes, sir, a number of FBI reports came in on all subjects, including that.

* * * * *

Senator EASTLAND. The question was specifically dealing with the Communist connections of Fidel Castro.

Mr. WIELAND. Dealing with the Communist connections of Fidel Castro?

Senator EASTLAND. Did you see any of those reports?

Mr. WIELAND. Yes, sir; a great many of them.

* * * * *

Senator EASTLAND. * * * Do you recall an FBI report that you saw that characterized Fidel Castro as a Communist?

Mr. WIELAND. I recall many reports, sir, which would describe Castro as a Communist; yes, sir. But I can't say whether one or another at this time came through the FBI or what the source was. I could not identify this.⁷⁰

BOGOTÁ

According to the State Department Biographic Register, Wieland served in Bogotá, Colombia, from November 13, 1946, to July 1, 1949, occupying the following responsible posts from time to time: third secretary and vice consul; second secretary and vice consul; consul. On April 9 and 10, 1948, during the period of Wieland's service, Communist-inspired riots occurred in Bogotá in an effort to disrupt the Inter-American Conference. In a special report on "Mob Violence as an Instrument of Red Diplomacy," the Senate Internal Security Subcommittee in 1960 had this to say about the Bogotá rioting:

The fact that the Communists played a decisive part in the events of April 9 and 10 is corroborated by a number of authoritative sources. Rafael Azula Barera, secretary general of the Colombian presidency * * * charged that Cuban, Costa Rican, and Honduran Communists had participated in the April 9 attacks on the Government radio stations * * * Then Secretary of State George C. Marshall was most outspoken in placing the blame for the outbreak on the Communist Party of Colombia and the Soviet Union (p. 8).

⁶⁹ State Department Security Hearings, pt. 5, p. 642.

⁷⁰ Ibid., pp. 642-643.

On February 2, 1962, Mr. Wieland testified as follows regarding his knowledge of Castro's part in these riots:

Mr. WIELAND. Sir, I knew that Castro had been in Bogotá; yes, sir. I knew that he had gone as a member of a Cuban student group to some student gathering down there that I understand was Communist dominated or Communist inspired. I knew that he had been reported active in one way or another in the disorders which took place in Bogotá at that time, but what degree of involvement I don't think I did know.⁷¹

Mr. Wieland admitted that he mentioned this to Sam Shaffer of Newsweek magazine in the fall or winter of 1957 as a reason for believing that Castro "is subject to Communist influences."⁷²

On March 15, 1961, the subcommittee questioned Col. Benoid E. Glawe, a man of considerable experience as an intelligence officer, who was a member of a group that interviewed Dr. Milton Eisenhower, Presidential Adviser on Latin American Affairs, on an airplane trip to Mazatlan in August 1959. Mr. Wieland was a part of the group which discussed the Communist record of Castro. Here is Colonel Glawe's testimony:

I recall asking Mr. Wieland how he could say Fidel Castro was not a Communist when we had evidence that he was a leader of the Bogotazo in Colombia. He said that was a report from a limited source and had never been substantiated by any other reports.⁷³

Later, on February 2, 1962, Mr. Wieland testified as follows regarding his service in Bogotá at the time of the riots:

Mr. SOURWINE. Where were you stationed at the time of the Bogotá uprising?

Mr. WIELAND. In Bogotá.

Mr. SOURWINE. In what capacity?

Mr. WIELAND. I was second secretary in charge of the political section.⁷⁴

* * * * *

Mr. SOURWINE. What were your duties in that office, and position?

Mr. WIELAND. I was in charge of labor and political reporting and some consular affairs.⁷⁵

* * * * *

Mr. SOURWINE. During the year 1948, did you see any reports dealing with Fidel Castro?

Mr. WIELAND. I may have and probably did.

Mr. SOURWINE. Do you recall that you did?

Mr. WIELAND. I have since remembered that I did when they were shown to me, yes.

Mr. SOURWINE. What was the nature of these reports?

Mr. WIELAND. There were various reports that he was engaged in the uprising in Bogotá.

Mr. SOURWINE. Do you know that numerous reports concerning Castro and designating him as a Communist went either over or around your desk during that period?

Mr. WIELAND. I don't recall those, though.

* * * * *

Mr. SOURWINE. Did you see any reports at that time about Fidel Castro's connections with communism?

Mr. WIELAND. I have since learned that there were such reports.⁷⁶

* * * * *

Senator HRUSKA. If there were reports, then they would come across your desk, you would occupy yourself with them, you would know who the figures were, who the personalities were?

⁷¹ State Department Security Hearings, pt. 5; p. 619.

⁷² Ibid, p. 618. Also see excerpt on p. 118 this report.

⁷³ Ibid, pt. 1, p. 11.

⁷⁴ Ibid, pt. 5, p. 637.

⁷⁵ Ibid, p. 637.

⁷⁶ Ibid, p. 638.

Mr. WIELAND. The principal ones; yes, sir, we tried to.

Senator HRUSKA. Are you now testifying that you do not recall any of those reports concerning that uprising which named Castro's part therein?

Mr. WIELAND. I recall that that there was mention of Castro, sir, but identifying him specifically as a Communist, I do not recall.

Castro at that time was a representative from Cuba to this student gathering in Colombia. The Bogotazo itself was a major event in Colombia and there was so much going on that I don't think that Fidel Castro was identified, in my mind, as having been a major participant. He was one of those who did take part. I don't think it made any strong impression on me then.

Senator HRUSKA. What were the nature and activity of this student gathering?

Mr. WIELAND. It was some kind of student conference, the nature of which I don't recall at this time.

Senator HRUSKA. Was it Communist in nature and background and activity and sympathy?

Mr. WIELAND. It was certainly Communist inspired. Almost all of them were at this time.

Senator HRUSKA. Did your reports and information in your office contain information about it?

Mr. WIELAND. There would have been information; yes, sir.

* * * * *

Mr. SOURWINE. Did you, Mr. Wieland, file any report or reports with the State Department in Bogotá on the youth conference in Bogotá in April of 1948?

Mr. WIELAND. I would assume so, sir, but I don't remember.

Mr. SOURWINE. Did you file a report with the State Department at any time, stating that the meetings, the youth conference meetings, were attended by members of the Communist party?

Mr. WIELAND. I may have, sir.

* * * * *

Mr. SOURWINE. Did you mention Fidel Castro as among the Cuban students who attended?

Mr. WIELAND. I may well have, again, sir, but I don't recall.

* * * * *

Mr. SOURWINE. Do you remember ever seeing any reports about a group, including Fidel Castro, Enrique Ovaras, Alfredo Guevara, Rafael del Pino?

Mr. WIELAND. I know, of course, the name of Rafael del Pino, who was with Castro in Bogotá. The other two I don't remember.^{77 78}

Wieland and the Bogotá G-2 Reports

The subcommittee was advised that there were Army G-2 reports and ONI reports regarding Fidel Castro, del Pino, and others who participated in the Bogotá riots, plus an evaluation by various intelligence agencies in October 1948, all of which documents referred to these individuals as Communists. When asked whether he had seen these reports, Mr. Wieland replied:

I don't know. I don't know if I saw a report like that in 1948.⁷⁹

⁷⁷ State Department Security hearings, pt. 5, pp 638-640.

⁷⁸ Alberto Nino H., Security Chief of Colombia at the time of the Bogotá riots, has written a study entitled "Antecedentes y secretos del 9 de April," Bogotá, Colombia, pp. 26-28, reprinted from "Communist Threat to the United States Through the Caribbean," pt. V, testimony of Hon. Spruille Braden, pp. 275, 276. The Security Chief refers to Fidel Alejandro Castro as one of a number of "foreign Communists, who had much to do with the preparations for the Ninth of April."

La Republica published in Bogotá, Colombia, on Jan. 21, 1959, an article by Mario Acosta Hurtado entitled "Fidel Castro Participated in the Events of April 9 (1948)." The article said in part: "Fidel Castro was one of the most dangerous agitators who had, in the company of other comrades, engaged in clandestine activities which finally culminated in horrible bloodshed, looting, malicious burning of property, and chaos * * *." The newspaper El Siglo in July 1948 reported the news relative to the Cubans in its Friday, July 2, 1948, number, p. 1 * * *. "Tells how, on the evening of April 9, a group of delegates of the Federacion Mundial de Juventudes (World Youth Federation) (Communist organization) visited Colombia on the occasion of the Pan American Conference meeting in Bogotá * * *" (ibid., pp. 277, 278).

⁷⁹ State Department Security Hearings, pt. 5, p. 640.

In his February 2, 1962, hearing, Wieland was questioned with relation to the events in Bogotá in 1948.

Mr. SOURWINE. Did you at that time—that is, in April 1950—see a report from Bogotá relating to the riots in 1948 and stating that those riots had been led by Communist students?

Mr. WIELAND. No, sir, I don't recall * * *.

Mr. SOURWINE. Are you aware that in 1950 the U.S. Embassy in Havana reported to the State Department, "Communist Party leaders such as Fidel Castro gathered at the university to demonstrate in favor of the independence of Puerto Rico"?

Mr. WIELAND. I don't remember that report.⁸⁰

When he first appeared before the committee, Mr. Wieland disclaimed having had any contemporary knowledge of Fidel Castro's activity in Bogotá in 1948. But he admitted that before July of 1949 he knew that Castro had been active in the Bogotá uprising in 1948.

Mr. SOURWINE. You were then in Bogotá for the 1948 conference?

Mr. WIELAND. Yes, sir.

Mr. SOURWINE. Did you know Fidel Castro at that time?

Mr. WIELAND. No, sir.

Mr. SOURWINE. Did you know of his activity in Colombia at that time?

Mr. WIELAND. I learned of it later, sir.

Mr. SOURWINE. You didn't learn of it at that time?

Mr. WIELAND. No, sir.

Mr. SOURWINE. He went on the radio at that time and broadcast, using his own name, didn't he?

Mr. WIELAND. There were thousands of people broadcasting on the radio on April 9, sir. I did not hear that particular broadcast that you refer to.

Mr. SOURWINE. Until when?

Mr. WIELAND. Some time later, sir, I saw a report that a Cuban student by the name of Fidel Castro had been active in the Bogotá uprising.

Mr. SOURWINE. Which was how much later; years later?

Mr. WIELAND. No, sir. I saw a report before leaving Bogotá.

Mr. SOURWINE. So that, before July 1949, you knew that Fidel Castro had been active in the Bogotá uprising in 1948?

Mr. WIELAND. I had seen his name; yes, sir.

Mr. SOURWINE. Did you at that time, while you were in Bogotá, see or know about any files related to Castro's background and his Communist associations?

Mr. WIELAND. No, sir.⁸¹

Wieland on Castro and Bogotázo

Wieland admitted in his testimony on February 2, 1962, that as early as the winter of 1957-58 he had known about Fidel Castro's participation in the Bogotázo, and had mentioned this to Mr. Samuel Shaffer of Newsweek at that time.

Mr. SOURWINE. * * * let me ask you this: If we asked you whether, in 1948, you knew of Fidel Castro participating in the Bogotázo?

Mr. WIELAND. I remember there was some discussion on that, yes.

Mr. SOURWINE. Did you in fact know about that?

Mr. WIELAND. Sir, I knew that Castro had been in Bogotá; yes, sir. I knew that he had gone as a member of a Cuban student group to some student gathering down there that I understand was Communist-dominated or Communist-inspired. I knew that he had been reported active in one way or another in the disorders which took place in Bogotá at that time, but what degree of involvement I don't think I did know.

Mr. SOURWINE. You mentioned that and told Mr. Shaffer about that also at the time of this talk which came after the poker party, did you not?

Mr. WIELAND. I probably—yes, I must have.⁸²

⁸⁰ State Department Security hearings, pt. 5, p. 641.

⁸¹ Ibid, p. 509.

⁸² Ibid, pp. 618-619.

Wieland Knowledge of Castro and Bogotazo

On the question of Mr. Wieland's knowledge of Castro's participation in the uprising in Bogotá in May of 1948, the following testimony by Mr. Wieland is significant.

Mr. SOURWINE. Where were you stationed at the time of the Bogotá uprising?

Mr. WIELAND. In Bogotá.

Mr. SOURWINE. In what capacity?

Mr. WIELAND. I was second secretary in charge of the political section.

Mr. SOURWINE. At your Embassy?

Mr. WIELAND. Yes, sir.

Mr. SOURWINE. Was that in May of 1948?

Mr. WIELAND. I believe that was the date, yes, sir.

Mr. SOURWINE. What were your duties in that office, and position?

Mr. WIELAND. I was in charge of labor and political reporting and some consular affairs.

Mr. SOURWINE. Did you know the individual who was then military attaché at the Embassy?

Mr. WIELAND. Yes, sir.

Mr. SOURWINE. Who was that?

Mr. WIELAND. I recall, Colonel Burkett. I don't recall whether he was attaché at that moment or not. I think so.

Mr. SOURWINE. Where was your office situated with respect to the office of the military attaché?

Mr. WIELAND. On the floor above.

Mr. SOURWINE. You were not officed together?

Mr. WIELAND. No, sir.

Mr. SOURWINE. During the year 1948, did you see any reports dealing with Fidel Castro?

Mr. WIELAND. I may have and probably did.

Mr. SOURWINE. Do you recall that you did?

Mr. WIELAND. I have since remembered that I did when they were shown to me, yes.

Mr. SOURWINE. What was the nature of these reports?

Mr. WIELAND. There were various reports that he was engaged in the uprising in Bogotá.

Mr. SOURWINE. Do you know that numerous reports concerning Castro and designating him as a Communist went either over or around your desk during that period?

Mr. WIELAND. I don't recall those, though.

Mr. SOURWINE. You do not recall those, though?

Mr. WIELAND. No.

Mr. SOURWINE. You mean you know there were such reports but you do not recall them.

Mr. WIELAND. There were such reports but I don't recall them now.

Mr. SOURWINE. Did you see any reports at that time about Fidel Castro's connections with communism?

Mr. WIELAND. I have since learned that there were such reports.

When Wieland was examined about whether he filed any reports with the State Department concerning Castro's participation in the Bogotazo, he again had memory trouble:

Mr. SOURWINE. Did you, Mr. Wieland, file any report or reports with the State Department in Bogotá on the youth conference in Bogotá in April of 1948?

Mr. WIELAND. I would assume so, sir, but I don't remember.

Mr. SOURWINE. Did you file a report with the State Department at any time, stating that the meetings, the youth conference meetings, were attended by members of the Communist Party?

Mr. WIELAND. I may have, sir.

Mr. SOURWINE. You are saying you do not remember?

Mr. WIELAND. I do not remember.

Mr. SOURWINE. Did you name any members of the Communist Party in your reports as having attended these meetings?

Mr. WIELAND. I may have but I don't recall.

Mr. SOURWINE. Did you mention Fidel Castro as among the Cuban students who attended?

Mr. WIELAND. I may well have, again, sir, but I don't recall.

Mr. SOURWINE. Did you mention him as a Communist?

Mr. WIELAND. I don't remember.

Mr. SOURWINE. Is it conceivable to you that you filed a report on this youth conference in Bogotá but that in that report you did not state anything about the meetings being attended by members of the Communist Party, did not name any Communists who attended and did not name Fidel Castro?

Mr. WIELAND. I don't know, sir.

Mr. SOURWINE. You do not remember.

Mr. WIELAND. I do not remember.

Mr. SOURWINE. Is it conceivable to you, knowing now what you had access to at the time, that you could have filed any report without mentioning those facts?

Mr. WIELAND. I don't recall what was available at that time.

Mr. SOURWINE. You have told us that you now know there were reports which mentioned Fidel Castro being involved in the uprising and that there were reports which mentioned Fidel Castro as one of the delegates at the youth conference, and that there were reports that the conference was Communist-inspired?

Mr. WIELAND. Yes, sir.

Mr. SOURWINE. Is it conceivable that you could have filed a report to Washington on the conference and not mentioned these facts?

Mr. WIELAND. If I knew in 1948 enough about Fidel Castro to judge what he would be up to in 1958 or 1957, it would certainly be inconceivable, yes.

Mr. SOURWINE. Well, of course, that is not the question.

Mr. WIELAND. But I don't know. I don't recall what I did see then or I don't recall what I said, sir.⁸³

THE AIRPLANE INCIDENT

Robert C. Hill, former Ambassador to Mexico, described the previously mentioned airplane trip from Mexico City to Mazatlan in August 1959. The passengers listed by Mr. Hill were Dr. Milton Eisenhower, President Eisenhower's brother and his adviser on Latin American affairs; William A. Wieland, acting as Dr. Eisenhower's adviser; Raymond Leddy, political affairs counselor for the Embassy, "one of the most knowledgeable men in Latin American affairs in the Department of State"; Col. Benoid Glawe, air attaché, and others. Ambassador Hill took advantage of the opportunity to hold a briefing session on Cuba, with Dr. Eisenhower's consent. Mr. Hill explained that—

The U.S. Embassy in Mexico was very concerned about the Cuban problem and how it would affect our relations with Mexico. * * * If Castroism was not restrained in Mexico, it could continue on to the Central American countries and through the Caribbean into Latin America.⁸⁴

At this briefing session, Mr. Leddy sought to place at Dr. Eisenhower's disposal information accumulated by the Embassy over the years from many sources.

Here is Ambassador Hill's description of the briefing session with Dr. Eisenhower:

Each time Mr. Leddy would say, "This is Communist dominated" or "This man is a Communist" he was met with Mr. Wieland saying, "It is not true."

In the middle of what turned out to be quite a long discussion, Colonel Glawe, who was the air attaché, came back and joined in the discussion and became involved in supporting Mr. Leddy's point of views. Each time that communism was mentioned and its control of the situation in Cuba, it was discounted by Mr. Wieland.

Mr. Leddy had an intelligence report for the month of June 1959 which supported many of Mr. Leddy's contentions. It was obvious to me that Mr. Wieland had not read the report, although he was directly responsible for the area.

⁸³ State Department Security hearings p. 5, pp. 637-640.

⁸⁴ Communist Threat to the United States Through the Caribbean, pt. 12, p. 796.

But when Mr. Leddy attempted to project the actual documents into the picture, an argument ensued, not a serious one, but I mean men disagreeing on the issue. Colonel Glawe referred to Mr. Wieland as either a damn fool or a Communist and, of course, it caused tempers to flare and Dr. Eisenhower said he did not want to hear any more about the situation * * *. In every instance where we tried to present Communist infiltration in the government of Castro it was met with a rebuff by Mr. Wieland.⁸⁵

The questioning brought out further details:

Mr. SOURWINE. Do you remember telling us in executive session that, on the occasion of this airplane trip to Matzatlan, which of course followed the El Salvador conference, Mr. Wieland had declared that Castro was an idealist; that he knew Castro personally; that there had been lots of charges and misrepresentations, but that there was no evidence in the State Department files to confirm Mr. Leddy's point of view that Castro was a Communist or surrounded and controlled by Communists?

Mr. HILL. I recall the conversation. We referred to the intelligence report of June 1959, to substantiate Mr. Leddy's claim that there was evidence in the files of pro-Communist and communistic associations by Fidel Castro.

Mr. SOURWINE. Did Mr. Leddy get an opportunity to show Dr. Milton Eisenhower this intelligence report?

Mr. HILL. If I recall correctly, Mr. Sourwine, he took it out of his briefcase, but that was the point that the meeting broke up. The doctor felt that tempers had risen and it would be unproductive to pursue the matter any further.

Mr. SOURWINE. I want to read to you from your executive session testimony and ask you if, according to your present recollection, this is exactly what happened. You told us that, after Mr. Wieland had interrupted the briefing to defend Castro against the charges of communism or Communist connections, * * * Mr. Wieland said, "There is no evidence of Communist infiltration in Cuba."

Mr. HILL. That is correct.⁸⁶

Colonel Glawe Tells Same Story

Col. Benoid E. Glawe, who testified before the subcommittee on March 15, 1961, has had considerable experience as an intelligence officer, including 3½ years as air attaché in Italy, 3 years with the Central Intelligence Agency, and finally a little over 3 years as air attaché in Mexico. As pilot of the C-47, he recalled the circumstances of the August 1959 trip to Mazatlan with Dr. Eisenhower, and his part in the discussions which took place:

Colonel GLAWE. * * * The discussion revolved about the Caribbean situation and Cuba in particular. The Ambassador and Mr. Leddy were trying to paint a picture of the situation for Dr. Eisenhower, describe the situation as they and the members of their staff saw it. Members from the Embassy, who were in that discussion, were decrying the tragedy of the Communist takeover in Cuba. Mr. Wieland disagreed with us very strongly, and he said words to the effect that there was absolutely no evidence of communism in Cuba.

In reply to me in particular, Mr. Wieland said he saw more intelligence reports than I did, therefore he had certainly a broader grasp of the situation than we who were limited in our view to Mexico. We pointed out that we saw a great many reports other than those originated in Mexico from various intelligence sources, including the FBI, CIA, the military, as well as the State Department. And that, without exception, all reports from our Embassy pointed to one thing, and that was very positive evidence that Castro and the leading elements of his government were Communists. We also pointed to the fact that these reports were available much before Castro came to power. I recall asking Mr. Wieland

⁸⁵ "Communist Threat to the United States Through the Caribbean," pt. 12, p. 798.

⁸⁶ Ibid., pp. 806, 807.

how he could say Fidel Castro was not a Communist when we had evidence that he was a leader of the Bogotazo in Colombia. He said that was a report from a limited source and had never been substantiated by any other reports.⁸⁷

* * * * *

Mr. SOURWINE. Do you recall any incident about this briefing in the airplane that you have not told us?

Colonel GLAWE. There was one statement that I thought was pertinent. At the time Mr. Wieland said there was absolutely no evidence of communism in Cuba, that he was challenged on that when we cited all the reports from the many agencies to the contrary—he corrected himself to say, “Well, there was no substantial evidence of communism in Cuba.” But it wasn’t—

The CHAIRMAN. And you told him he was either a liar or a Communist—a fool or a Communist.

Colonel GLAWE. That his talk could come only from a fool or a Communist—or a Communist sympathizer.⁸⁸

Colonel Glawe also explained the sources of his information:

Mr. SOURWINE. Now, Colonel, you were at the time quite knowledgeable with regard to Cuban affairs, were you not?

* * * * *

Colonel GLAWE. Yes, sir. * * * As a result of reports that I read, as a result of reports that I wrote, as a result of many contacts I had with Americans from Cuba, as well as Cuban refugees from Cuba.

Mr. SOURWINE. You had been knowledgeable with regard to Cuban affairs for a period of several years; had you not?

Colonel GLAWE. Yes, sir.

Mr. SOURWINE. Can you tell the committee when it first became apparent to intelligence people that the Castro regime was a Communist-infiltrated regime?

Colonel GLAWE. I would say, from my own personal conviction, that in the summer of 1958, sufficient evidence by reports had been collected to where it eliminated any doubt in my mind— * * * We had such evidence as the chanting of the Communist Internationale in front of the British Embassy in Mexico when the British were going to provide Batista airplanes, when we refused to do so. These Communist manifestations in defense of Castro were apparent even in Mexico 7 or 8 months before he came to power.

Mr. SOURWINE. You knew who was giving Castro’s people in the Sierra Maestra guerrilla training, did you not—Gen. Alberto Bayo?

Colonel GLAWE. We knew he was getting support from that direction.

Mr. SOURWINE. And you knew that Bayo was an oldtime Communist?

Colonel GLAWE. Yes, sir.

Mr. SOURWINE. And you knew that “Che” Guevara was with Castro?

Colonel GLAWE. Yes, sir.

Mr. SOURWINE. And you knew that “Che” Guevara had a long Communist record?

Colonel GLAWE. From Argentina; yes, sir.

Mr. SOURWINE. And you knew that Raul Castro had a Communist record; didn’t you?

Colonel GLAWE. We had reports that identified him positively with the Communist movement.

Mr. SOURWINE. And you knew of Fidel Castro’s own part in the uprising in Bogotá; didn’t you?

Colonel GLAWE. Yes, sir.

Mr. SOURWINE. Would you have said that it would have been possible for a highly knowledgeable person as early as the winter of 1957–58 to have concluded and stated that Castro was surrounded by Communists and might himself be a Communist?

Colonel GLAWE. I believe that would be a very logical conclusion.

* * * * *

Mr. SOURWINE. In those reports, were you describing the situation as it was—you were describing the Castro forces as Communist oriented?

Colonel GLAWE. Our reports were made on separate incidents which would add up to—whenever we identified an individual or an action, that was associated

⁸⁷ State Department Security Hearings, pt. 1, p. 15.

⁸⁸ Ibid. p. 10.

with the Communists, those reports would cover that, and as such were part of the big jigsaw puzzle to make a complete picture.

* * * * *

The CHAIRMAN. What about when he was a refugee in Mexico?

Colonel GLAWE. His associations when he was a refugee in Mexico were with members of the Communist party.

* * * * *

Mr. SOURWINE. * * * Do you know of other specific instances about which you can tell us?

Colonel GLAWE. Well, the press carried statements from the philo-Communist Party, the Parties Populare, down in Mexico, which showed their strong support for Castro and his movement. And we all knew what the popular party in Mexico stood for—that their support could only——

* * * * *

Senator JOHNSTON. Did you know at any time of any Communist in Mexico that was in contact with Castro—that is, prior to him taking over in Cuba?

Colonel GLAWE. I don't recall the names, but we had names of such contacts and reports. To answer your question specifically, there were reports that identified Communists had been in contact with Castro while he was in Mexico, prior to his coming to power in Cuba.⁸⁹

Leddy Corroborates

Mr. Leddy corroborated Mr. Hill's testimony with regard to what occurred aboard the C-47 in August 1959:

Mr. SOURWINE. Do you remember a particular occasion when Mr. Milton Eisenhower visited Mexico and when he was briefed with regard to Castro during an airplane ride?

Mr. LEDDY. I do, sir.

Mr. SOURWINE. Will you tell us first: were you on the airplane?

Mr. LEDDY. Yes, sir.

* * * * *

Mr. SOURWINE. Now, who gave Mr. Milton Eisenhower the briefing on Castro?

Mr. LEDDY. I was asked by the Ambassador to discuss the conclusions of the fifth meeting of Foreign Ministers at Santiago, Chile, that same weekend.

Mr. SOURWINE. Did you do this?

Mr. LEDDY. In the course of this discussion we got into the entire Cuban situation since the meeting at Santiago had been called primarily to deal with the Cuban problem.

Mr. SOURWINE. Did you express your synthesis of the intelligence which had come to you with respect to Castro?

Mr. LEDDY. Yes, sir; I reviewed a number of items which concerned the conclusions of the Foreign Ministers meeting and their relation to the Cuban Government and then discussed the composition of the Cuban Government and its actions up to that time, which was the last week of August of 1959, when Castro was in power for about 8 months.

Mr. SOURWINE. Did you express a conclusion respecting Castro's communistic connections or his affiliations?

Mr. LEDDY. Yes, sir; I pointed out that the information which we had available would indicate in my mind conclusively that Castro was, himself, pro-Communist and that his government was falling under the control of Communists and that, as such, it constituted a danger to other countries and a matter of serious concern to our own Government.

Mr. SOURWINE. Were you interrupted at all during this briefing?

Mr. LEDDY. Mr. Wieland expressed disagreement with me throughout the period of an hour and a half.

Mr. SOURWINE. Specifically, did he express disagreement with what you have just told us you said about Castro's communistic connections and affiliations?

Mr. LEDDY. Yes, sir; he expressed disagreement with each of the points which I raised for discussion.

Mr. SOURWINE. Did he declare that Castro was not pro-Communist?

⁸⁹ State Department Security Hearings, pt. 1, pp. 13-17.

Mr. LEDDY. He said that Castro was not a Communist and that there was no conclusive evidence that any of the people in his government were Communists.

* * * * *

Mr. SOURWINE. Do you remember the words in which Colonel Glawe expressed this disagreement?

Mr. LEDDY. I do very clearly because at the end of the discussion, Colonel Glawe turned to me and said, "I disagree with Mr. Wieland of the State Department. In my mind, he is either pro-Communist or a fool."

* * * * *

Mr. SOURWINE. Am I correct in understanding that Ambassador Hill and Colonel Glawe both supported your position?

Mr. LEDDY. That is correct.

Mr. SOURWINE. That Mr. Wieland was alone in defending Mr. Castro to Milton Eisenhower?

Mr. LEDDY. That is correct.

* * * * *

Mr. SOURWINE. Now, from your knowledge of the intelligence which you saw in your official capacity were you able to form an opinion respecting the position Mr. Wieland took during the briefing of Mr. Eisenhower in the airplane in August of 1959?

* * * * *

Mr. LEDDY. In the first place, that he was not fully informed of all the facts bearing upon the Communist penetration of the Cuban Government, and secondly, that he was not willing to accept the interpretation of those facts which was offered in the course of the discussion.

* * * * *

In the course of the conversation, he made a point of the fact that he saw all of the reports whereas we could only see part of them in Mexico.⁹⁰

Wieland's Account

The August 1959 plane trip with Dr. Milton Eisenhower, Presidential adviser on Latin American affairs, and the argument which ensued regarding the Communist ties of Fidel Castro, was recalled vividly by four witnesses. Undoubtedly it was an important occasion in the career of Mr. Wieland. It seems reasonable to assume the incident was the subject of official reports by several, if not all, of the participants. And yet, Mr. Wieland swore he could not recall it.

Mr. SOURWINE. Did you, on the occasion of this briefing of Dr. Milton Eisenhower in Mexico City, make statements discounting Castro's Communist affiliations?

Mr. WIELAND. I don't recall doing that, no * * *.

* * * * *

Mr. SOURWINE. At this briefing of Dr. Eisenhower * * * did you hear any person make a statement substantially to the effect that Castro was obviously under Communist control if not actually a Communist?

Mr. WIELAND. I don't recall that statement.

* * * * *

Mr. SOURWINE. * * * the committee has had the allegation that you were present at such a briefing, that this statement was made, that you interrupted to declare, "That is a lie, Dr. Eisenhower. * * *" Did you say that?

Mr. WIELAND. I do not recall saying that; no, sir; I do not.

Mr. SOURWINE. The question was, did you interrupt a briefing where this statement had been made to convey to Dr. Eisenhower the information that in your opinion, at least, the information was untrue?

Mr. WIELAND. I do not recall.⁹¹

⁹⁰ Communist Threat to the United States Through the Caribbean, pt. 13.

⁹¹ State Department Security Hearings, pt. 5, p. 602.

First questioning of Mr. Wieland about the briefing of Dr. Milton Eisenhower was phrased so as not to directly identify the incident, in order to test Mr. Wieland's recollection.

Mr. SOURWINE. Do you remember any occasion when Dr. Eisenhower was being briefed when you interrupted the briefer or contradicted the briefer?

Mr. WIELAND. No, sir; I do not.

Mr. SOURWINE. Did you ever interrupt or contradict a briefing of Dr. Milton Eisenhower for the purpose of defending Castro and the Castro regime?

Mr. WIELAND. No, sir; not that I recall.

* * * * *

Mr. SOURWINE. Do you remember an occasion at the U.S. Embassy in Mexico City when Dr. Eisenhower was being briefed with regard to conditions in Cuba?

Mr. WIELAND. I don't remember the location, sir. I do remember that Ambassador Hill was discussing Cuba with Mr. Eisenhower; yes, sir.

Mr. SOURWINE. You were present?

Mr. WIELAND. Yes, sir.

Mr. SOURWINE. In the Mexican Embassy or however it was on this occasion?

Mr. WIELAND. I was present during such discussion; yes, sir.

Mr. SOURWINE. Were several others also present?

Mr. WIELAND. I believe so, sir.

Mr. SOURWINE. Do you recall any of those others who were present?

Mr. WIELAND. There was Ambassador Hill.

Mr. SOURWINE. That is Robert Hill.

Mr. WIELAND. Yes, sir; Ambassador Robert Hill, former Ambassador to Mexico; Mr. Ray Leddy—

Mr. SOURWINE. Raymond Leddy, counselor on political affairs for Mexico, now adviser to the 15th General Assembly of the U.N.

Mr. WIELAND. I did not know, but it is the same Leddy.

I think Mr. Keith Spalding, as well, who was, I believe his title is, special assistant to Dr. Eisenhower.

Mr. SOURWINE. Mr. H. Gerald Smith, counselor for economic affairs of the U.S. Embassy; was he there?

Mr. WIELAND. I don't recall.

Mr. SOURWINE. Col. Benoid E. Glawe of the U.S. Air Force; was he there?

Mr. WIELAND. I don't recall, sir.

Mr. SOURWINE. Did you, on the occasion of this briefing of Dr. Milton Eisenhower in Mexico City, make statements discounting Castro's Communist affiliations?

Mr. WIELAND. I don't recall doing that; no.

Mr. SOURWINE. Did you interrupt anyone during that briefing or contradict anyone during that briefing?

Mr. WIELAND. I do not remember that.

Senator DODD. Wouldn't you remember a thing like that?

Mr. WIELAND. Pardon me?

Senator DODD. Wouldn't you remember an occurrence like this? I understand—

Mr. WIELAND. I would try to honestly, Mr. Chairman, but I don't.

Senator DODD. You don't just remember whether you did or not? Is that a fair appraisal of your answer?

Mr. WIELAND. I do not remember interrupting or contradicting; no, sir.

Senator DODD. Wouldn't you remember, don't you think you would remember, if you were defending him?

Mr. WIELAND. I think I would, sir.

Senator DODD. If you were explaining him or explaining or arguing with others about his true posture, political posture? This wasn't a very slight and unimportant matter, I assume?

Mr. WIELAND. Sir, I assume I would remember contradicting anyone in such a briefing, but I do not remember.

Mr. SOURWINE. At this briefing of Dr. Eisenhower at the U.S. Embassy in Mexico, did you hear any person make a statement substantially to the effect that Castro was obviously under Communist control, if not actually a Communist?

Mr. WIELAND. I don't recall that statement.

Senator DODD. Was there any argument or discussion or difference among the participants at that conference about Castro's true political posture, I describe it, position, affiliation? You didn't have meetings like this every day, obviously?

Mr. WIELAND. Mr. Chairman, I don't recall the details of the conversation.

Mr. SOURWINE. Well, now, Mr. Wieland——

Mr. WIELAND. I don't.

Mr. SOURWINE. In line with the chairman's statement——

Mr. WIELAND. Yes.

Mr. SOURWINE (continuing). That we are perfectly frank, the committee has had the allegation that you were present at such a briefing, that this statement was made, that you interrupted to declare, "That is a lie, Dr. Eisenhower."

Senator DODD. I think more than one person has said so, too.

Mr. SOURWINE. Yes, sir.

Did you say that?

Mr. WIELAND. I do not recall saying that, no, sir; I do not.

Mr. SOURWINE. Well, can you deny that you said it, if other people, I don't want to put it——

Senator DODD. I don't like to have a question put in that way, Mr. Sourwine, because we assume he is giving his best recollection.

Mr. SOURWINE. Yes, sir.

Senator DODD. I think all we can hope to do is refresh his recollection.

Mr. WIELAND. I do not recall contradicting, denying. I do not recall using such a phrase at any time.

Senator DODD. He was the President's brother, after all.

Mr. WIELAND. Yes, sir.

Senator DODD. And this is a pretty unusual thing to say, I would think.

Mr. SOURWINE. Well now, the phrase isn't so important as the substance.

Mr. WIELAND. I know that.

Mr. SOURWINE. And it isn't a question of the phrase or the exact words but the substance. The question was, Did you interrupt a briefing where this statement had been made to convey to Dr. Eisenhower the information that in your opinion, at least, this statement was untrue?

Mr. WIELAND. I do not recall.

Mr. SOURWINE. Well, you have recalled here——

Mr. WIELAND. That conversation.

Mr. SOURWINE. You have recalled here making numerous anti-Castro statements——

Mr. WIELAND. Yes, sir.

Mr. SOURWINE (continuing). To your people in the Department and to newspaper people, and so forth.

Mr. WIELAND. Yes, sir.

Mr. SOURWINE. You do not recall making the pro-Castro statement on this instance?

Mr. WIELAND. No, sir; I do not.⁹²

Questioned on February 2, 1962, a year later, the witness seems to have had a different viewpoint.

Senator KEATING. What was the date of the conversation in the airplane regarding which we have had so much evidence?

Mr. WIELAND. That was in the latter part of August 1959. I don't remember the exact date. * * *

Mr. SOURWINE. You remember this as the occasion of the briefing of Mr. Milton Eisenhower?

Mr. WIELAND. Yes, sir.

Mr. SOURWINE. Do you remember now that this did take place in an airplane?

Mr. WIELAND. I remember now there was a discussion, Mr. Sourwine * * *

Mr. SOURWINE. Are you aware that in the previous discussion, you were not asked and you did not tell us that that took place in an airplane?

Mr. WIELAND. I don't recall, sir.

Mr. SOURWINE. But you remembered the incident and you knew that it did take place in an airplane?

Mr. WIELAND. Yes, sir.⁹³

⁹² State Department Security Hearings, pt. 5, pp. 601-603.

⁹³ Ibid., p. 618.

Mr. Wieland still claimed he did not recall the events which took place in the airplane. After the testimony of Colonel Glawe was read to him, Mr. Wieland replied to the question: You have testified you do not recall anything like that happening? that—

I don't recall. I know that there was tension in the discussion but, honestly, I do not recall.

Committee counsel then exhorted Mr. Weiland:

I want to call your attention to the fact that four witnesses before this subcommittee have testified to this incident in substantially the same terms. They all witnessed that it took place and under oath, they said that it did. This was not too many years ago. If it took place it took place in the presence of your superior, in the presence of the President's brother, and is not the kind of thing that a man would be likely to forget.⁹⁴

But Mr. Wieland did not admit that he remembered.

From a partial nonrecall of the incident, Mr. Wieland veered to a total nonrecall of certain phases and an attempt to rationalize what took place as follows:

Now, it may be that in trying to explain that there was not enough hard evidence of sufficient strength to convince others of the Communist threat in Cuba, when you have two positions of this sort, one taking the other position that communism had already been proven, the other trying to show that we needed more hard and fast evidence which so far we had not had in the joint estimates, you might give rise to a different interpretation, and if I led him to misunderstand my position, I must regret it.⁹⁵

But Mr. Wieland would not challenge the testimony of other witnesses to the incident.

Mr. SOURWINE. Do you remember the discussion becoming heated in the airplane?

Mr. WIELAND. I remember there was strain and tension; yes, sir.

Mr. SOURWINE. Do you remember that Mr. Leddy and Ambassador Hill and Colonel Glawe were all uniting to challenge your position?

Mr. WIELAND. Sir, I do not recall the specifics of that conversation. I do recall that their position, the Ambassador and Mr. Leddy—I don't remember having discussed the Cuban situation with Colonel Glawe previously—was, as I recall their positions, in the nature of insisting that the United States ought to take immediate action, either hemispherewide or if that failed, by force, to put an end to the problem in Cuba.

The position of the Department, as I recall it, was rather that we had to gather more hard factual evidence that would be more persuasive to other governments, other people, other countries, before we would be in a position for that strong action.

Mr. SOURWINE. All right, sir.

Senator KEATING. I think, if I may, I would like to ask this. Your recollection seems to be hazy on this subject. Do you challenge the statements of all three of these witnesses in substance, that they said you must be either a Communist or a fool?

Mr. WIELAND. Sir, if the three witnesses say that such a remark was made, I don't challenge it, no. I don't recall.⁹⁶

The evaluating officer who handled the Wieland security case testified he did not accept as credible Wieland's statement that he did not remember the incident in the airplane, when, according to several witnesses, during an attempted briefing of Dr. Milton Eisenhower with respect to Castro's Communist background and associations, Wieland repeatedly interrupted the briefing to defend Castro:

Mr. SOURWINE. * * * Are you familiar with the incident alleged to have taken place in an airplane over Mexico?

Mr. ОТЕРКА. Yes, sir.

⁹⁴ State Department Security Hearings, pt. 5, pp. 621-622.

⁹⁵ Ibid., p. 621.

⁹⁶ Ibid., pt. 1, pp. 102-103.

Mr. SOURWINE. You have read all the testimony in regard to it and have questioned Mr. Wieland with respect to it?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. After you had done all that did you feel you had reason to disbelieve or discount the testimony of Ambassador Hill and Mr. Leddy and Colonel Glawe?

Mr. OTEPKA. On the contrary, I chose to believe the statement of those individuals as against the statement of Mr. Wieland, or the lack of recollection on the part of Mr. Wieland as to what transpired in the airplane.

Mr. SOURWINE. Did you accept as credible Mr. Wieland's statement that he did not remember that instance?

Mr. OTEPKA. I did not accept that.

Mr. SOURWINE. Was Dr. Milton Eisenhower contacted in connection with the investigation in the Wieland case?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. Was a statement secured from him with respect to his memory of the conversation in the airplane?

Mr. OTEPKA. In the contact of Dr. Eisenhower by the investigating agency, in the original account of that investigation there is no account of the airplane incident.

Mr. SOURWINE. That seems peculiar. This was a central point, was it not?

Mr. OTEPKA. I thought so, sir.

* * * * *

Mr. SOURWINE. Did you yourself contact Dr. Eisenhower—by you, I mean your division?

Mr. OTEPKA. The Department of State made no contact of Dr. Eisenhower.⁹⁷

But Deputy Under Secretary Jones testified he had considered the "apparent discrepancy" between Wieland's testimony and the testimony of other witnesses regarding the incident which involved the attempted briefing of Dr. Milton Eisenhower in an airplane over Mexico and that he had decided the facts in favor of Mr. Wieland.

Mr. SOURWINE. You mean the Evaluation Division never raised any question about whether he had lied to this committee?

The CHAIRMAN. Well, of course, that is what he said.

Mr. JONES. They raised the issue as to whether these were material facts, in view of the fact that they were not in the original application material submitted to the State Department at the time of his initial appointment.

Mr. SOURWINE. I understood you to say those were all of the points that were raised.

Mr. JONES. This is on integrity, yes, sir.

Mr. SOURWINE. They did not raise any question about whether he had lied to this committee?

Mr. JONES. I recollect no raising of that issue in those terms.

Mr. SOURWINE. They did not raise the question about whether he had lied to this committee when he said he did not remember the incident in the airplane?

Mr. JONES. No.

I am coming to that side of the thing. I am talking now about the integrity thing.

Mr. SOURWINE. Is not lying to a congressional committee under oath a matter of integrity?

Mr. JONES. I am trying to put these things in the categories in which they came to me, Mr. Sourwine.

Mr. SOURWINE. I am sorry, go ahead.

Mr. JONES. Now, moving over to the question of judgment, the record goes into the question of the airplane incident, the question of the way in which Mr. Wieland responded to certain questions put to him by the committee, and the apparent discrepancy between his testimony and the testimony of some of the officers who expressed themselves very vigorously with respect to their judgments about Mr. Batista and Mr. Castro.

Mr. SOURWINE. And did the Evaluation Division make findings adverse to Mr. Wieland on these points?

Mr. JONES. They did not make findings adverse, no, sir. They threw up the facts for us at the higher level to decide.

⁹⁷ State Department Security hearings, pt. 1, p. 103.

Mr. SOURWINE. And you went into the question and decided those facts?

Mr. JONES. This is correct. This was done.

Mr. SOURWINE. And you decided them in favor of Mr. Wieland?

Mr. JONES. They were decided in favor of Mr. Wieland.⁹⁸

Wieland's Alias

Mr. Wieland testified on February 2, 1962, that if the application form he signed when he entered employment with the State Department had required him to list any alias or any former name by which he had gone or which he had used, he would have disclosed that he had used the name Montenegro.

Mr. SOURWINE. Mr. Wieland, we discussed at a previous session your employment application of June 4, 1941, and the fact that this employment application listed no alias or no former name that you had used. You pointed out, I believe, that there was no place on the form to list any aliases. In other words, you were not asked if you had used any previous names. That is correct, is it not?

Mr. WIELAND. I don't have the transcript. I may have said that.

Mr. SOURWINE. I am just asking you: Is it true, that this application form of 1941 does not have any place on it to list a previous name? It does not ask you if you had ever used any previous name.

Mr. WIELAND. I don't know, sir.

Mr. SOURWINE. I will show you a photostat of the form, which you have seen before.

I thought the witness was familiar with that point. I am willing to state for the record that there is no place on this application calling for a listing or disclosure of any previous name or any alias and the completed form does not disclose any previous name or any alias.

Mr. WIELAND. That seems correct, sir; yes, sir.

Mr. SOURWINE. If that form had required that you list any alias or any former name by which you had gone or which you had used, you would have disclosed that you had used the name Montenegro, is that correct?

Mr. WIELAND. I should have; yes, sir.⁹⁹

Concerning the form 84 which Mr. Wieland filled out in 1948, this was Deputy Under Secretary Jones' testimony:

Mr. JONES. Standard form 84 is a single-sided form. It was not made out in duplicate. The original, which was sent to the Federal Bureau of Investigation with the procedures which existed at that time, has been destroyed by the Federal Bureau of Investigation.

They followed a practice of sending back a photostat which was appropriately stamped or endorsed, and then the original was destroyed.

The form, in photostatic form, does not show the signature of the individual because it does not take in the photostatic process unless a certain type of ink was used.

Consequently, Mr. Wieland's signature, his signed certification, does not show on the photostat.

All Government employees were not required to complete a new form 84 at the time that Executive Order 10450 replaced Executive Order 9835, so we have to go all the way back to the 9835 form which he completed on May 11, 1948.

Under an Executive direction which is still in effect, issued March 13, 1948, and signed by President Truman, all officers and employees of the executive branch of the Government were instructed not to—well, let me put it positively—were instructed in these words:

"Reports rendered by the Federal Bureau of Investigation and other investigative agencies of the executive branch are to be regarded as confidential. All reports, records, and files relative to the loyalty of employees with respect to employers, including reports of such investigative agencies, shall be maintained in confidence and shall not be transmitted or disclosed except as required in the official conduct of business."

⁹⁸ State Department Security Hearings, pt. 1, pp. 35-36.

⁹⁹ Ibid., pt. 5, pp. 628-629.

Under that authority I have been instructed to inform the committee that the form 84 with the endorsement of the Federal Bureau of Investigation may not be submitted, but I am at liberty to give to the committee a typed copy which I am willing to certify is a copy of all of the material that appears on that form, except that I cannot certify that Mr. Wieland's name was there, because it does not show on the photostat, and I cannot reproduce the endorsement from the Federal Bureau of Investigation.

Mr. SOURWINE. Although they have assented that they would be perfectly willing that you should do so?

Mr. JONES. That is correct, sir, but I am instructed under this directive not to give the actual photostatic form itself.

Mr. SOURWINE. Who instructed you in that regard?

Mr. JONES. I have had those instructions from the legal advisers.

Senator KEATING. Let me ask you——

Mr. SOURWINE. Mr. Chayes, you mean?

Mr. JONES. Yes, sir.

Mr. SOURWINE. He can instruct you; can he?

Mr. JONES. He can instruct me on matters of law and compliance with requests of the Congress.

Senator KEATING. Does the record in the FBI indicate whether or not this was signed by Mr. Wieland?

Mr. JONES. I did not understand the question, Senator Keating.

Senator KEATING. Does a record in the FBI indicate whether or not this application was signed by Mr. Wieland?

Mr. JONES. I do not think I can give you a definitive answer to that. The assumption by all of us is that it was, because it was standard practice to require signature of these forms by the individual.

Mr. SOURWINE. It would not have gone to the FBI in the first place if it had not had his signature?

Mr. JONES. I assume it would not have; no.¹

Mr. Wieland did not recall whether he had stated that he had used the name "Montenegro," in filling out security form 84 in 1948 which asked if he had ever used another name.² The record shows that Wieland answered: "None."³

Wieland Disagrees

Testifying about form 84, which he filled out in 1948, Mr. Wieland swore that he had had no occasion to look over the form or go over it at all since he made it out.

Mr. SOURWINE. Do you recall in 1948 President Truman issued an Executive order, 9835, involving a review of everybody's security file and that everyone was required to fill out a form?

Mr. WIELAND. Yes, sir.

Mr. SOURWINE. Do you recall filling out a form 84 under that Executive order in 1947?

Mr. WIELAND. I filled out a form, yes, sir. I think it was in 1948.

* * * * *

Mr. SOURWINE. * * * Is it not true that form 84 as a form does have a place where the applicant or the person filling it out is requested to state any alias or any former name ever used?

Mr. WIELAND. I don't recall, sir.

Mr. SOURWINE. Do you not know that to be true, Mr. Wieland?

Mr. WIELAND. Sir, I am not reading the form. I don't have it in front of me.

Mr. SOURWINE. I know you do not have it in front of you, but do you know that that form has such a question?

Mr. WIELAND. I don't remember the form, Mr. Sourwine.

Mr. SOURWINE. That is not my question. My question is, Do you not know it to be true that there is such a question on that form?

Mr. WIELAND. Sir, I do not recall the form. I will assume so, I will not challenge it. But I don't know the form.

¹ State Department Security Hearings, pt. 1, pp. 43, 44.

² Ibid. pt. 5, p. 634.

³ Ibid. pt. 1, p. 46.

Senator KEATING. Mr. Wieland, counsel is asking you for a reference not only to your memory of the form but to all subsequent proceedings that have taken place.

The question is, do you not know that that form contains a request for any previous names which you may have used.

Mr. WIELAND. Sir, in view of the nature of the form, which is on the basis of a security investigation or a loyalty affidavit, I would assume so, sir, but I do not recall this form.

Senator JOHNSTON. Do you mean to say that you have had no occasion to look over that form or to go over it at all?

Mr. WIELAND. Not since I made it out, sir.

Senator JOHNSTON. Not since you made it out?

Mr. WIELAND. No, sir.

Mr. Wieland also swore that he did not know whether, in filling out that form, he had disclosed his use of the name Montenegro; and he testified he had not been questioned by the Department on anything in reference to how he had filled out that form.

Mr. SOURWINE. Let me ask you this question: Did you, in filling out that form, disclose that you had used the name Montenegro?

Mr. WIELAND. I don't know, sir.

Mr. SOURWINE. You do not know?

Mr. WIELAND. I don't know, sir.

Senator JOHNSTON. You have not been questioned by the Department on anything in reference to how you filled out that form?

Mr. WIELAND. No, sir. They did ask me about my use of the name Montenegro in prior years and they did inquire why I did not fill it out in my application, why I did not put in this information; yes, sir. But I do not recall anything specifically on that one form; no, sir.

Despite his earlier testimony that if his application form had contained a question about aliases or names formerly used, he would have disclosed his use of the name Montenegro, Wieland asserted that at the time he filled out form 84 in 1948 "it would not probably have occurred to me to put it down." Here is his testimony on this point:

Mr. SOURWINE. Well, now, if that form carried a question about former names used by you and if you did fill out that form, is it conceivable to you that you would have filled in this space "None" or that you would have filled, in that space, information showing that you had used the name Montenegro?

Mr. WIELAND. I will answer that as I should, sir. I should have filled in on that form the name Montenegro, but I doubt very much that I would have, because I had ceased using that name so long ago that it would not probably have occurred to me to put it down.

Mr. SOURWINE. Do you think you might have filled the form in with the word "None" at that point?

Mr. WIELAND. I might have, as my legal name was Wieland. I might have done that without—

Mr. SOURWINE. But you do not know what you did in fact do?

Mr. WIELAND. No, sir.⁴

Wieland Confronted With 1948 Form 84

State Department policy in security cases would have required that Mr. Wieland be shown a copy of the form 84 he had filled out in 1948, and be questioned about his answer "none" to the question on the form regarding the use of aliases or other names:

Mr. SOURWINE. * * *. The investigation of a State Department employee in connection with security involves the questioning of the employee. Is that a fair statement?

Mr. ОТЕРКА. Yes, sir.

⁴ State Department Security Hearings, pt. 5, pp. 635, 636.

Mr. SOURWINE. Is that questioning done by an individual security officer or by a team of two or more?

Mr. OTEPKA. It is usually done by an individual security officer. In some cases it may be done by more than one security officer:

Mr. SOURWINE. When it is done by one security officer, is it customary that he should be alone with the person being questioned or is there usually a third person present?

Mr. OTEPKA. Usually there is not a third person present.

Mr. SOURWINE. And is this questioning usually taken down, that is, is it a matter of record or is it something concerning which only notes are made?

Mr. OTEPKA. The usual practice is that only notes are made by the interrogating officer.

Mr. SOURWINE. Now, this investigation, does it involve going over with the subject all of his applications and loyalty forms, everything with respect to which an adverse allegation has been made?

Mr. OTEPKA. Are we speaking of applicant cases, sir, or employees?

Mr. SOURWINE. No. I am speaking of an employee case.

Mr. OTEPKA. Well—

Mr. SOURWINE. Let me rephrase the question. Is he given an opportunity in the face-to-face confrontation to explain every allegation that has been made against him, anything which is adverse?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. If there is a question about what he wrote in an application 20 years before, the application is pulled out, he is given a chance to see it. He is given a chance to explain it; is that right?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. If there has been an allegation against him, he is asked about it.

Mr. OTEPKA. Yes, sir.⁵

It appears this policy was carried out. Mr. Otepka specifically recalled having shown Mr. Wieland, in 1961, the form 84 which had been filed in 1948 under the Truman Executive order.

* * * * *

Mr. SOURWINE. Now, do you recall Mr. Wieland's form 84 which was filed in 1948 under the Truman Executive order?

Mr. OTEPKA. I do, sir.

Mr. SOURWINE. Do you recall if there was a question about possible misstatement or direct misstatement?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. That question concerned a section of the form in which the signer is required or requested to indicate any aliases or nicknames?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. And Mr. Wieland had written in that space "none"?

Mr. OTEPKA. The typewritten answer on that form was "none."

Mr. SOURWINE. And in fact he had gone by the name of Montenegro?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. As an alias or nickname?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. Now, did you discuss this with him in connection with the security case?

Mr. OTEPKA. Yes; I did.

Mr. SOURWINE. Did you show him the form?

Mr. OTEPKA. I did so.

Mr. SOURWINE. And you showed him his answer?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. And you showed him his signature?

Mr. OTEPKA. I showed him the carbon copy of the form, which was a form which was returned by the investigating agency as the Department's copy. And I questioned him about whether he recalled signing that form and he acknowledged that he may have.

Mr. SOURWINE. You showed him a photostat or carbon copy—which was it?

Mr. OTEPKA. He saw the Department's record copy.

Mr. SOURWINE. The Department's record copy?

Mr. OTEPKA. Yes, sir.

⁵ State Department Security Hearings, pt. 4, pp. 454, 455.

Mr. SOURWINE. Now, there has been some discussion before this committee earlier about a copy which went to the Department of Justice and was returned, a copy of the copy of the photostat of the copy. Do you know anything about such a copy?

Mr. OTEPKA. No, sir, the——

Mr. SOURWINE. The Department's record copy had then been to the Department of Justice?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. It had been?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. And had been returned from that Department?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. But this a carbon copy of the original?

Mr. OTEPKA. A carbon copy of the original.

Mr. SOURWINE. And this what you showed Mr. Wieland?

Mr. OTEPKA. I did so.

Mr. SOURWINE. And did you ask him why he had given the answer "None"?

Mr. OTEPKA. Yes.

Mr. SOURWINE. And what did he tell you?

Mr. OTEPKA. He said a former name in his estimation did not fit the definition of "alias or nickname."

Mr. SOURWINE. Were you and Mr. Wieland alone together when you asked him about this?

Mr. OTEPKA. No, sir.

Mr. SOURWINE. Who else was with you?

Mr. OTEPKA. Mr. Hite.

Mr. SOURWINE. And he heard Mr. Wieland answer?

Mr. OTEPKA. Yes, sir, and the stenographer was there.

Senator HRUSKA. Was a transcript made of that conversation?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. You do have that transcript?

Mr. OTEPKA. Yes, sir.⁶

Mr. Jones gave testimony which directly contradicted the earlier statement by Mr. Wieland that he, Wieland, had not been questioned about his answers on the 1948 form 84:

Mr. SOURWINE. This form 84, for instance, said—you mentioned "Montenegro"—there is a space "aliases and nicknames," and apparently he wrote in there "None."

Mr. JONES. That is correct.

Now, we do not consider that this was misrepresentation in the legal sense of the word, that misrepresentation must be deliberate with intent to falsify or to conceal.

Mr. SOURWINE. Is it your opinion or your judgment that Mr. Wieland has lied either to the Department or to this committee?

Mr. JONES. I have no evidence that Mr. Wieland has lied to the Department except if you call this a lie; but we do not consider this a lie, sir.

Senator KEATING. Is there not evidence that he did not disclose fully the information requested of him?

Mr. JONES. No, I cannot put it in those terms, Senator Keating, because it was not asked for.

* * * * *

Mr. SOURWINE. With regard to this matter of the form 84, has he been given an opportunity to explain why he wrote "None" in there?

Mr. JONES. Yes, I asked him the question.

Mr. SOURWINE. And that explanation was acceptable to you?

Mr. JONES. It was entirely.

Mr. SOURWINE. What was that?

Mr. JONES. His explanation was he used the name "Montenegro" as a boy when he lived in his stepfather's house; he did not consider it an alias and certainly did not consider it a nickname and did not consider it was relevant.

Mr. SOURWINE. When did you ask him that?

Mr. JONES. I cannot give you the exact time when I asked him that, sir. Certainly some time after last summer.⁷

⁶ State Department Security Hearings, pt. 1, pp. 98-100.

⁷ Ibid. p. 50.

After Mr. Jones' attention had been called to the fact that his testimony with respect to the form 84 filled in by Mr. Wieland in 1948 contradicted Mr. Wieland's sworn testimony, Mr. Jones began to hedge on his own testimony. The following excerpts are in proper chronological order, though the testimony was not consecutive:

Mr. SOURWINE. Are you aware that Mr. Wieland has sworn under oath before this committee that he never saw this form 84 after 1948, and that he never had any reason to know what he had put on it—other than his memory, which was nonexistent—of what happened in 1948?

Mr. JONES. Yes, I am aware that he said that.

Mr. SOURWINE. Do you think he told the truth when he said that?

Mr. JONES. Yes, because I do not think he did see the form again, to the best of my knowledge.

Mr. SOURWINE. You testified here that you asked him about it?

Mr. JONES. Yes, but he did not see the form.

Mr. SOURWINE. But you asked him about what his answer was?

Mr. JONES. That is correct?

Mr. SOURWINE. You discussed his answer with him?

Mr. JONES. I discussed the issue of "Montenegro" with him; yes, sir.

Mr. SOURWINE. So he had reason in that connection to know what his answer on the form was?

Mr. JONES. No, sir.

This was after his last appearance before this committee, sir.

Mr. SOURWINE. It was?

Mr. JONES. Yes, sir.

Mr. SOURWINE. When was it?

Mr. JONES. This was at the time—I think counsel correctly refreshes my memory here. This question was not put to him by me until the time of the President's query with Miss McClendon.

Mr. SOURWINE. In other words, you had never gone into that question.

Mr. JONES. I had not.

Mr. SOURWINE. At the time you made your decision about it?

Mr. JONES. I did not go into this with him at that time. If I implied or said otherwise in the record, I made an error.

Mr. SOURWINE. When was it? Can you give us the date on which you did go into it with him? That is the last thing I want here.

Mr. JONES. I cannot give you the date. To the best of my recollection, it was not the afternoon of the conversation between the President and Miss McClendon. I know it was just about that time, and at that time I did not show him the form. I asked him about the "Montenegro" thing.

Mr. SOURWINE. You called him in for that purpose?

Mr. JONES. No. We were talking about the whole situation, and I do not remember now, sir—in fact, I am not sure. Bill, was the interchange with Miss McClendon prior to, or after, Mr. Wieland's last appearance before this committee?

Mr. BOSWELL. I believe it was prior to.

Mr. SOURWINE. Your testimony is that you did not ask him this until after his last appearance before this committee?

Mr. JONES. Then I could be wrong. Mr. Boswell may be correcting me again.

Mr. SOURWINE. Did you ask him this in December or January?

Mr. JONES. To the best of my recollection, Mr. Sourwine, it was the day after the interchange between Miss McClendon and the President.

The date of that, I do not recall, but I think Mr. Boswell is correct. That was prior to the time that Mr. Wieland was recalled by this committee, but I did not show him the form.

Mr. SOURWINE. But you did go over the question of what he had said on the form?

Mr. JONES. Only with respect to the question of the name "Montenegro."

Mr. SOURWINE. That is right.

Mr. JONES. That is correct.

Mr. SOURWINE. In that one regard?

Mr. JONES. That is correct.

* * * * *

Mr. SOURWINE. * * * You mentioned a conference you had, or question session, with Mr. Wieland, Mr. William Wieland, the day after the Presidential press conference at which Sarah McClendon asked about Mr. Wieland and another individual.

Mr. JONES. Yes, I indicated I thought it was the day after, and I have not had a chance to check the date.

Mr. SOURWINE. I have been informed the Presidential press conference in question was January 24, 1962, which would have made your conference with Mr. Wieland the next day, the 25th.

Can you tell us what were the reasons for that conference? Was it because of the Presidential press conference?

Mr. JONES. Yes. I was straightening out with Mr. Wieland and also with Mr. Miller the responses that had been made. I was advising him of the responses that I had made to the press, and generally indicating to them what the position was that the Department was going to take in the event of conversations.

Mr. SOURWINE. Were these gentlemen both present at the same time?

Mr. JONES. No, they were the afternoon of the press conference. If it was the next day, and I am still not sure of that. I saw them separately.

Mr. SOURWINE. Did you call them to your office for this purpose?

Mr. JONES. Yes, sir. As a matter of fact, I am not even sure now whether Mr. Miller came up. I think I talked to him on the telephone, but Mr. Wieland did come to the office.

Mr. SOURWINE. You remember that this matter came out when we were discussing the question of whether you had given Mr. Wieland an opportunity to explain the statement in the form 84?

Mr. JONES. Yes. If I may correct counsel, it was not an opportunity to explain that so much as my asking him about the name "Montenegro."

Mr. SOURWINE. My question said: "Had he been given an opportunity to explain?"

Mr. JONES. Yes.

Mr. SOURWINE. And you said, as a matter of fact, you had talked to him yourself?

Mr. JONES. Yes, I talked to him about it.

Mr. SOURWINE. And in that context I understood at the time I first asked that question that you were saying that this had been done as a part of the investigation. Then it later came out that this apparently was not so.

Mr. JONES. No, not as a part of the investigation, no, sir.

Mr. SOURWINE. That is right. You had simply asked him about this particular point when you talked with him on or about the 25th of January?

Mr. JONES. That is correct.

Mr. SOURWINE. Can you tell us how it happened that this one particular point came up? You did not traverse everything in the security memorandum, did you?

Mr. JONES. No, I did not.

I cannot tell you why that particular thing stuck in my mind other than to give you an impression, Mr. Sourwine.

Mr. SOURWINE. Yes, sir.

Mr. JONES. And that was that I have the impression, but it is not even a recollection, that in all of the flareup that followed the President's press conference—and there was considerable for the next several hours, I assure you—I think somebody referred to me, and it may have been one of the members of the press, the question of the so-called alias or the use of the stepfather's name "Montenegro".

But, in any event, it was topside enough in my mind the next day so that I asked him about that in connection with the form 84.

Mr. SOURWINE. When you talked with him the day following?

Mr. JONES. Yes.

Mr. SOURWINE. The 25th or about the 25th?

Mr. JONES. Yes.

Mr. SOURWINE. That was the only item of the security case that was specifically discussed with him at that time?

Mr. JONES. It was the only item of the form 84 which was discussed with him at that time; yes, sir.

Mr. SOURWINE. As a matter of fact, that is the only discrepancy that has been claimed for that form 84, is it not?

Mr. JONES. I think there was also, was there not, Mr. Counsel, the question of the discrepancy in the birth date on which I think it subsequently was established that this was the correct birth date.

Mr. SOURWINE. I was asking, not asserting.

Mr. JONES. Yes.

Mr. SOURWINE. In any event, you did discuss with him the question of his answer "none" in the box on this form where it calls for aliases, and he told you that he did not consider "Montenegro" as either an alias or a nickname?

Mr. JONES. That is right.

Mr. SOURWINE. And this was a satisfactory explanation to you?

Mr. JONES. That was a satisfactory explanation to me; yes.⁸

Almost at the end of Mr. Jones' testimony, there was further colloquy about his discussion with Mr. Wieland of Wieland's use of the name Montenegro and his failure to disclose this on the form 84 which he filled out in 1948:

Mr. SOURWINE. * * * Did you state earlier that you had discussed the use of the name "Montenegro" with Mr. Wieland in August?

Mr. JONES. If I did, I did not intend to do so, sir.

Mr. SOURWINE. You did not, in fact, discuss it with him at that time?

Mr. JONES. To the best of my recollection, the time that I mentioned "Montenegro" was after the McClendon-President exchange.

Mr. SOURWINE. The day after?

Mr. JONES. I think it was approximately the day after, and I did this because, as I told you, my recollection, but I have no documentation on this, that there had been put to me some question about the "Montenegro" thing that grew out of the similarity of the name—well, the identity of the name "Montenegro" as applied to Mr. Wieland and a Montenegro who appeared in the testimony of one of the witnesses before the committee. I don't remember which witness it was.

Mr. SOURWINE. There was a Carlos Montenegro who, with his wife, was a member of the Communist Party?

Mr. JONES. Yes.

Mr. SOURWINE. There is no connection between him and Mr. Wieland at all.

Mr. JONES. No, but I don't remember which witness brought that up. I am quite sure, as I recall it now, one of the newspaper people or one of the press service people raised this issue with me, had this been settled, and I guess more out of curiosity, maybe to make conversation, than anything else, I asked Wieland about this thing because I wanted to hear what he had to say about it.

Senator KEATING. Is this Carlos Montenegro a Cuban?

Mr. SOURWINE. Yes, sir; a Cuban.

Senator KEATING. A U.S. citizen?

Mr. SOURWINE. No, sir. He is presently in Panama.

Mr. JONES. The man who married Mr. Wieland's mother after his father's death subsequently became an American citizen.

Mr. SOURWINE. And his mother was native born, and Mr. Wieland is an American citizen?

Mr. JONES. That is right.

Mr. SOURWINE. Can you explain how Mr. Wieland, after having been questioned by you about his answer in this form 84 and his explanation for the answer, having explained that in the context in which the question was asked he did not consider that the name "Montenegro" fell within it? How it is that on the 2d of February, when he was asked by this committee if he had any reason to know what his answer had been, he told us "No"?

Mr. JONES. No, I cannot, because I do not remember, Mr. Sourwine, whether I referred to the form 84 or whether I did not at that time. I just don't—I am not sure whether—

Mr. SOURWINE. Wait a minute.

Mr. JONES. Wait, just let me finish.

Mr. SOURWINE. All right.

Mr. JONES. I am not sure whether I put it at first in the context of the query that had come to me, but I am sure that, before I finished, I did refer to the fact that the name "Montenegro" had not been made a matter of record on our forms. But whether I specifically used the word "form 84," I don't recall.

⁸ State Department Security Hearings, pt. 1, pp. 52-55.

Mr. SOURWINE. You had to be discussing this form because you told us that he had said that he did not put it down because it was not called for by the language of the form.

Mr. JONES. Yes, but I had reviewed all of the other documents. As a matter of fact, I am not sure you and I had not talked about this over the telephone prior to that time, but I had also looked at form 57, I had looked at various and sundry other forms that had been filled out over the years, and the only thing that I wanted to make clear was that I am not sure that I specifically identified form 84 when I talked with Mr. Wieland. I did——

Mr. SOURWINE. You talked with him about a form in which there was a blank space for aliases or nicknames?

Mr. JONES. That is correct.

Mr. SOURWINE. In which he had written "none"?

Mr. JONES. That is correct.

Mr. SOURWINE. Did you describe this form to him in substantially that way?

Mr. JONES. I do not recall whether I did or not, sir.

Mr. SOURWINE. Or did he remember that the form had said "aliases and nicknames"?

Mr. JONES. No.

Mr. SOURWINE. And say that he did not consider this——

Mr. JONES. I made that point to him.

Mr. SOURWINE. Then you discussed with him a form which called for aliases or nicknames, and he told you that he did not put the name "Montenegro" in because he did not consider it was an alias or nickname?

Mr. JONES. This is my recollection, yes.

Mr. SOURWINE. And you did not identify the form as form 84?

Mr. JONES. I do not know whether I did or not, sir.

Mr. SOURWINE. And you do not know whether you identified it, do you, as to the year?

Mr. JONES. No, I am——

Mr. SOURWINE. But you did identify it as a form he had filled out to the Department?

Mr. JONES. I think I did, I am not sure. I think I said this morning I did, and this afternoon I am saying that I still think I did, but I am not sure.

Mr. SOURWINE. You would not have questioned him about a form that he filled out somewhere else, would you?

Mr. JONES. May I repeat again, Mr. Sourwine, my discussion with him of this issue was against the backdrop of a name rather than the absence of a name on a form.

Mr. SOURWINE. Yes, sir.

Mr. JONES. But I think I used the form and the absence of the name on the form in order to bring the question into focus, but I cannot be absolutely certain.

Mr. SOURWINE. He had to know about the language "alias or nickname" in order to give you the answer he did, did he not? He had to know that the blank space on the form called for any alias or nickname, in order to give you the answer that he did not consider that the name "Montenegro" was either an alias or a nickname?

Mr. JONES. I wish I could be absolutely certain in my recollection of how I put the question to him, Mr. Sourwine.

Mr. SOURWINE. We are passing that at the moment. Are you clear that he did tell you that he did not consider "Montenegro" was either an alias or a nickname?

Senator KEATING. No, Counsel, he is saying he does not remember how he put the question to him; that he does not know for sure whether he asked him, "Is this an alias or a nickname," is that not what you are saying?

Mr. JONES. That is what I am saying, Senator Keating, because this issue of the alias or nickname is an issue which, somewhere along the line, I have also discussed over the telephone with Mr. Sourwine against the backdrop of whether or not we could supply the copy for the record.

I do know that I have discussed with Mr. Wieland the use of the name "Montenegro." I do not know for certain, and please remember I am under oath, sir, I do not remember for certain whether I did it specifically against the backdrop of the form 84 or whether I did not.

Mr. SOURWINE. If the Chairman will permit, you have testified here that Mr. Wieland told you that he left that name out because he did not think it was called for by the form, since he did not consider it either an alias or a nickname?

Mr. JONES. If I used the words "left it out," I probably misspoke myself.

Mr. SOURWINE. All right, perhaps you said that he answered "none" because he did not consider that the name "Montenegro" was either an alias or a nickname, but your testimony was that he told you he did not consider the name "Montenegro"——

Mr. JONES. This is correct.

Mr. SOURWINE (continuing). Either an alias or a nickname?

Mr. JONES. This is correct.

Mr. SOURWINE. Therefore, he had to know that the form called for aliases or nicknames in order to give you that reason, is that not true?

Mr. JONES. It is a valid assumption, yes.

Mr. SOURWINE. And he had to know that either because he read that it was on the form or because you asked him about it in those terms?

Mr. JONES. Or I could have asked him:

"Did you ever adopt the name 'Montenegro'?"

I don't remember how it came about.

As I told you, I do not recall exactly how this came up.

Mr. SOURWINE. You don't even recall now whether you asked him about an answer on a form?

Mr. JONES. No, I do not recall that.

Mr. SOURWINE. I am sorry, I must have confused you thoroughly.

Senator KEATING. No, he is not confused. As I understand it, he said this morning just exactly what you say. He thought it over and this afternoon he is not absolutely sure that the words "alias or nickname" were used. Is that right or not?

Mr. JONES. This is correct, Senator Keating. I do not remember whether I ever used those or not. I do not remember whether Mr. Wieland referred to "alias or nickname." I do not know that explained to me the circumstances of his use of the name "Montenegro."

Senator KEATING. You confronted him with having used this?

Mr. JONES. This is correct.

Senator KEATING. Having had this name and having filled some blank in with "none" and why did he do that?

Mr. JONES. I am not sure whether I confronted him with the blank. I just don't remember.

Senator KEATING. You are not sure even whether you had the blank in your possession at the time?

Mr. JONES. I know that the blank was in my possession at the time, yes, sir, because the entire Wieland file was in my possession at the time of this conversation.

Mr. SOURWINE. I am sorry, Mr. Chairman, I thought that just a moment ago Mr. Jones told us that Mr. Wieland had said that he did not consider the name "Montenegro" either an alias or a nickname.

Mr. JONES. I think he did say this, but what I am mixed up on is just where the "alias or nickname" came into this subject.

Mr. SOURWINE. How it came in?

Mr. JONES. How it came in or what point it came into the discussion.

Mr. SOURWINE. "Alias or nickname" is what is called for in that blank on the form 84?

Mr. JONES. That is right. This is on the form, and I have looked at the form so many times since then that I may have a compression of memory here with respect to the form as opposed to the incident in which I talked to him about the use of the name "Montenegro."

Mr. SOURWINE. So at least, if you did not ask him about a form and he was not answering you with regard to a form, it was an interesting coincidence that he used the words "alias or nickname"?

Mr. JONES. If he did, indeed, use them. I have to——

Mr. SOURWINE. There is some doubt about that now?

Mr. JONES. Yes. I have told you I thought he did and I would be glad to check his recollection and anything that I can do to check it, but at the moment I am not sure.⁹

It appears to the committee that Mr. Wieland deliberately made false statements under oath with regard to the matter of this form 84 and whether he had seen it or had independent cause to know what

⁹ State Department Security Hearings, pt. 1, pp. 66-69.

his answers had been, since the time he filled it out. It is also the committee's opinion that this question was pertinent and material. The committee recommends that the Justice Department study the testimony in this respect to determine whether perjury was committed.

WIELAND AND ARMS WITHHOLDING

Mr. Wieland gave an interesting rationalization respecting the State Department's authority to withhold arms from the Batista government then battling against Castro's onslaughts:

Mr. SOURWINE. What action had the Batista government taken which constituted a violation of the agreement with regard to the use of the aid?

Mr. WIELAND. It had taken the grant-aid equipment it was receiving from the United States for the maintenance of a hemisphere defense unit, had dispersed that unit and distributed the equipment to the troops it had in the mountains of Cuba, both in the eastern and the western part of the country.

Mr. SOURWINE. It was using that equipment to fight Castro, was it not?

Mr. WIELAND. To fight the revolutionaries, of which Castro was one.¹⁰

* * * * *

Senator HRUSKA. The use of arms of Batista to fight Castro and his revolutionaries was considered a violation of the agreement?

Mr. WIELAND. The agreement said it was not to be used for anything other than purposes stipulated by the two governments without prior consultation with the United States.

Senator HRUSKA. What were those purposes?

Mr. WIELAND. Hemispheric threat, yes.

Senator HRUSKA. And overthrow of the government with violence was not considered within the terms of that agreement?

Mr. WIELAND. Not within that agreement, sir.¹¹

This withdrawal of arms shipments had a demoralizing effect on the Batista government, according to American Ambassador Gardner, who testified:

No. 1, his troops are not trained for mountain fighting. That is No. 1. No. 2 is that it is like a rabbit running under a cover, or through a field. I mean you can get up in an airplane, and you could not see them, or what they were doing. So his air force could never spot them. And then I think that, thirdly, the troops got so discouraged by the position we had taken about not giving them arms and so on that they just didn't want to fight. And when that regiment went down, and the colonel was supposed to be the toughest colonel they had, he didn't want to fight, because he took all the money that was supposed to feed the soldiers, and they had to bring them back. It was general demoralization, that they felt that Batista was finished.

Senator DODD. Was this largely because it was known or felt that the United States had abandoned Batista and supported Castro?

Mr. GARDNER. That is right.¹²

Simultaneously, it was clear that aid was furnished from American sources to Castro forces, as testified by Mr. Pawley:

I think this is a Bill Wieland idea. I really do, I am not trying to say that Bill Wieland is the one blank spot with me either because there are a lot of them. But I think Bill Wieland is the one responsible for this problem and therefore it would have to originate at that point.

¹⁰ EDITOR'S NOTE: The following is excerpted from a "Chronology of U.S. Relations With Cuba From 1957 to 1962" prepared by the Department of State: "In 1958 we suspended arms shipments to the Batista government which, in disregard of an agreement with the United States, had used them to combat the revolutionary movement headed by Fidel Castro." See Appendix "Communist Threat to the U.S. Through the Caribbean," pt. 13.

¹¹ State Department Security Hearings, pt. 5, p. 652.

¹² "Communist Threat to the United States Through the Caribbean," pt. 9, p. 673.

He was the one, no question about it, who came up with the idea of not selling arms to either side in Cuba. But here is an interesting thing: While they were doing this, I lived in Miami, and this is a fact; more than 10,000 men were armed for Castro out of Dade County with all of the officials closing their eyes to Castro receiving their arms in spite of the neutrality law; and the minute Castro came in, the Justice Department sent down 250 special agents which there are today to prevent anyone from hurting our friend Castro.¹³

The holdup of aid to Batista was interpreted by such publications as *The Nation*, sympathetic to the Castro uprising, as a signal that Batista was on his way out.

An article in *The Nation*, June 13, 1959, by Betty Kirk, included this statement:

State Department attitudes toward Cuba were further clarified when, in March 1958, shipment of military supplies to Batista was canceled. This was a signal, understood by all, that the dictator was on his way out and Castro was in, although it took some months to consummate the transfer. Had any doubts on the question survived, they were removed by the immediate recognition of Dr. Castro and his movement and by the later welcome accorded him in the United States.¹⁴

In the prepared statement which he read to the committee on February 8, 1961, Mr. Wieland said:

Both the Department and our Ambassador repeatedly told the Cuban Government in 1958 that shipments of arms would remain suspended until we could be sure they would not be used in Cuba's internal revolt. We made it clear that this policy would continue until the Batista government itself took concrete steps to seek a political solution satisfactory to the majority of the Cuban people instead of insisting on brutal repressive measures and force of arms.¹⁵

This led to some cross-examination by committee counsel:

Mr. SOURWINE. In other words, during 1958 both the State Department and the U.S. Ambassador to Cuba, acting on instructions from the Secretary, of course, repeatedly told the Cuban Government that it did not have the support of this Government in its fight against Castro.

Mr. WIELAND. No, sir. The attempt was to persuade the Government of Cuba to seek a broader basis of support in order to strengthen its own position, to achieve a political solution rather than simply a showdown of force which, at that time——

Mr. SOURWINE. You mean the Department was seeking a coalition government?

Mr. WIELAND (continuing). Which at that time was alien to the people of Cuba.

Sir, the nature of the Government——sir, the nature of the solution which the Cuban Government might have found was naturally a matter for the Cubans to decide.

Mr. SOURWINE. What you are saying——

Mr. WIELAND. What we did seek was for the Government of Cuba to obtain a broader basis of support for itself by seeking a political solution rather than a showdown of force against Castro.

Mr. SOURWINE. What you are saying here clearly is that the Government of the United States, from the Department and through the Ambassador, told the Cuban Government that we would not provide any arms with which they could fight Castro.

Mr. WIELAND. Sir, we said we would not provide arms until they could achieve a more popular form of government, until they could show that they themselves had a formula for some form of solution, sir.

Mr. SOURWINE. Well, you say here "both the Department and our Ambassador repeatedly told the Cuban Government in 1958 that shipments of arms would remain suspended until we could be sure they would not be used in Cuba's internal revolt."

¹³ "Communist Threat to the United States Through the Caribbean," pt. 10, p. 745.

¹⁴ State Department Security Hearings, pt. 5, p. 658.

¹⁵ Ibid pt. 5, p. 542.

Mr. WIELAND. Yes, sir.

Mr. SOURWINE. In other words, he got no arms from us until he committed himself that he wouldn't use them against Castro; isn't that what that language means?

Senator DODD. I don't want to interfere, but let it rest. I don't know how it could mean anything else.

Mr. SOURWINE. I am sorry, Mr. Chairman.

Mr. WIELAND. Yes, sir.

Senator DODD. Maybe Mr. Wieland has a different apparatus for understanding or comprehension than I have. Leave it in the record. Let's see what everybody else thinks it means.

Mr. SOURWINE. Yes, sir. I will withdraw the question.

Mr. WIELAND. Yes, sir. This was in line with the Secretary's instruction that they not be used in internal strife.¹⁶

Mr. Wieland testified that "the arms were suspended but there was no publicity on this until the story leaked, I think, first in the New York Times."¹⁷

Pawley on arms suspension

Ambassador Pawley summed up the situation briefly as follows in his testimony:

A decision was made, and a very unwise one, and announced to the world that we, the U.S. Government, would supply no further arms to Batista's government nor would we supply them to Castro.

Now one is a revolutionary, known to be a Communist, and to put them both in the same notice that we will not supply to a recognized government that is working with us in every possible way, nor will we supply them to the revolutionary, when he knew—and I think that the policy came out of Bill Wieland's office, approved by the Assistant Secretary and later reached the approval of higher officials—but that policy statement condemned the Batista government to defeat, because the entire hemisphere and the world, but more important, the Cuban Army, and the Cuban people, knew that Batista was finished in the eyes of the American Government, that isn't, in my judgment, good policy planning.

If you want to get rid of a man you certainly don't do it by that type of approach, because what you are doing, and I have told Wieland and other members of the Department of State including Rubottom and members of CIA just that, prior to Batista's fall, in meetings in which I participated both in CIA and in the Department of State—and I told Wieland in the meeting of several people, "If you permit Fidel Castro to come into power you are going to have more trouble than you have ever seen in your life."

Mr. SOURWINE. When was this?

Mr. PAWLEY. This was 6 weeks before Fidel came into power.¹⁸

WHAT WIELAND TOLD FRIENDS: SAM SHAFFER

On February 15, 1961, the Senate Internal Security Subcommittee heard Samuel Shaffer, chief congressional correspondent of Newsweek magazine. Mr. Shaffer testified that he and William A. Wieland are friends and members of a group which plays poker every Monday night. Mr. Shaffer placed a particular conversation with Wieland about Castro in the winter of 1957, or early in 1958. Mr. Shaffer's testimony follows, in part:

* * * it was toward the end of the game that Bill teased me, said that "the trouble with you newspapermen is that you do a lousy job of reporting about * * * Latin American affairs." And I remember the conversation continued after the game and we walked out to our cars, which were parked nearby, and we stood there in this cold night and he continued the discussion. He belabored me for the sins of Herbert Matthews, of the New York Times, and others.

¹⁶ State Department Security Hearings, pt. 5, pp. 542, 543.

¹⁷ Ibid., p. 657.

¹⁸ "Communist Threat to the United States Through the Caribbean," pt. 10, p. 738.

He said, and this made quite a deep impression on me, because all I knew of Castro—I must say, to interrupt, Senator, Latin America has never interested me; I am a congressional and political expert, even if that is a self-serving declaration; that is my field and all I knew about Castro was from the articles by Herb Matthews in the New York Times and similar pieces written by newsmen who I think were caught up in the romantic fervor of “I interviewed Fidel Castro in the mountains.”

He said to me, “I know Batista,” and this is pretty much as he put it, “I know that Batista is considered by many as a son of a bitch,” but, he said, “American interests come first.” He said “at least he is our son of a bitch, he is not playing ball with the Communists.”

He said “on the other hand, Fidel Castro, who many of you newspapermen are romanticizing, is surrounded by Commies.” He said, “I don’t know whether he himself is a Communist,” but, he said, “I am certain that he is subject to Communist influences.”

And, he went on to refer to something in Castro’s background, and it was a conference and I don’t recall whether it was in Venezuela or Bogotá, but I do remember that it was the one where General Marshall was embarrassed greatly at some incident— * * * I remember that he said that Castro was an agitator or something in the incident that resulted in the embarrassment of General Marshall.¹⁹

Mr. Wieland was asked about his talk with Mr. Shaffer and he answered as follows in his testimony of February 2, 1962:

Senator EASTLAND. But you had told Sam Shaffer in the winter of 1957–58 that Fidel Castro was probably a Communist and was certainly surrounded by Communists?

Mr. WIELAND. I think I was saying that I would not be surprised if he were, but we didn’t have the certainty that he was. * * * I am trying to say, sir, that there were growing suspicions of Castro’s Communist bent as such. * * * Sir, at the time I spoke with Mr. Shaffer, this suspicion was not in the U.S. public mind or in the U.S. press.²⁰

Wieland and Shaffer Statement

At the time of his testimony in February 1961, Mr. Wieland claimed he did not recall having made the statement, at any time prior to May of 1959, that Castro was surrounded by Communists and might be a Communist himself.

Do you recall at any time prior to the briefing of Dr. Eisenhower in 1959 having made the statement that Castro was surrounded by Communists and might be a Communist himself?

Senator DODD. Could I hear that again, please?

Mr. SOURWINE. Yes, sir. Would you read it back, Mr. Reporter?

(The pending question, as recorded, was read by the reporter.)

Senator DODD. And you are asking Mr. Wieland if he recalls having made such a statement prior to that conference with Dr. Eisenhower?

Mr. SOURWINE. Yes, sir.

Mr. WIELAND. I might have made such a statement, Mr. Sourwine, but I do not recollect it.

Mr. SOURWINE. Now, did you make such a statement to——

Senator DODD. I hate to keep interrupting. What do you mean by stating you “might have made it”? Do you have any recollection whether or not you made such a statement? What does that kind of answer mean: “I might have made it”? Is this something that cannot be remembered? I don’t think that is a very responsive answer. Do you, yourself?

Mr. WIELAND. Mr. Chairman, I am trying to be as responsive as I can.

Senator DODD. I am not charging you with not trying. I am simply suggesting to you that it is a vague, unresponsive answer.

Mr. WIELAND. If, at some time prior to the briefing of Dr. Eisenhower before his departure for Mexico, I had the view that there were Communists surrounding

¹⁹ State Department Security Hearings, pt. 3, p. 1.

²⁰ Ibid., pt. 5, pp 647, 648.

Castro and there was a possibility he was a Communist himself I would say, yes. But if I can remember the specific instance in which I might have said this, I am sorry, sir, I can't.²¹

Mr. Wieland never denied the testimony of Mr. Samuel Shaffer of Newsweek concerning the statement made to him by Wieland during the winter of 1957-58 that Castro was surrounded by Communists and might be himself a Communist. Even under careful questioning, Mr. Wieland's testimony in this area was consistently vague or equivocal. But Mr. Wieland did admit that he did not remember writing anything in any official report to his superiors which reflected generally what he had told Shaffer.

Mr. SOURWINE. Mr. Shaffer said this conversation with you was during the winter of 1957-58. He said either late 1957 or early 1958. He was asked, "Are you sure of that?" and he said "Sure." It was roughly a year before Castro came into power? and Mr. Shaffer said, "Yes."

This would seem to indicate that about that time, roughly a year before Mr. Castro came into power, you did know, because you told Shaffer that Castro was surrounded by Communists, and might be himself a Communist.

Mr. WIELAND. As I say, sir, I was aware that there was Communist influence trying to take over the movement there and this was a real danger. I did not know how much of a Communist Castro himself was but I did know there was a danger of Communists dominating the entire movement and I was——

Mr. SOURWINE. Did you, sir, subsequent to this conversation with Mr. Shaffer, officially advise any of your superiors in the Department, or include in any of the papers you wrote, any statement along the lines of the one you made to Mr. Shaffer; that is, that Castro was surrounded by Communists and might be himself a Communist?

Mr. WIELAND. Sir, the question of Communist danger in the Cuban revolution, among the revolutionists and terrorists, was always a prevalent one throughout the Department of State. There was always an awareness of the danger of this Communist threat taking over.

There were also other reports that Castro himself was trying to avoid that in order to control his own movement.

I am certain that throughout the whole period, there were discussions back and forth on what the Communist problem was in Cuba and what might be done to stop it, if possible.

Mr. SOURWINE. Well, whatever you did write or tell to your superiors, after this conversation with Mr. Shaffer, was written or told with the knowledge that, in your mind, Castro was surrounded by Communists and might be himself a Communist?

Mr. WIELAND. Sir, that there were Communists who were trying to take over the movement, yes, but we were getting reports that Castro himself was trying to avoid that and trying to retain control of the movement.

I knew that Communists were around him, but to go so far as to say surrounded by Communists, I don't think I could at that time. But that Communists were trying, moving in and trying to take over, I could, yes.

Senator HRUSKA. I do not know that the witness said that he wrote anything.

Did you write anything in your report which reflected generally what is referred to here?

Mr. WIELAND. Sir, I don't remember writing anything. What I was doing was discussing the available information based on the intelligence reporting already coming into the Department of State.

Senator HRUSKA. The question is, whether you wrote in your report the substance of the facts as you related them here. Did you or did you not write in your reports?

Mr. WIELAND. I do not recall writing them. I understood Mr. Sourwine's question to be did I write or talk about them to my superiors.

I do not recall writing. I may have. I know that it was constantly in discussion.

* * * * *

²¹ Ibid., p. 663, 664.

Mr. SOURWINE. If I may, I would like to call your attention specifically to the language which Mr. Sam Shaffer in his testimony attributed to you.

* * * * *

Mr. SOURWINE. He said that you, Mr. Wieland, said to him this: "Fidel Castro, whom many of you newspapermen are romanticizing, is surrounded by Communists. I don't know whether he is himself a Communist, but he is subject to Communist influence."

Are you telling us now that you didn't say that or that you could not have said that at that time?

Mr. WIELAND. No, sir, I am not saying that. I am simply saying that I did not know to what degree Castro had become a Communist, but I did feel that I knew that Communist influences were working on Castro and trying to take over his movement.

Mr. SOURWINE. In other words, you do not challenge Mr. Shaffer's testimony in any way?

Mr. WIELAND. Oh, no, sir.²²

Mr. Otto Otepka testified he had not found any information to the effect that Wieland had told friends he thought Castro was a Communist.

Mr. SOURWINE. Are you aware that although Wieland told close personal friends as early as the winter of 1957-58 that he then knew Castro was surrounded by Communists and probably was a Communist himself, nevertheless in May 1959 and later Wieland was still reporting to his superiors that Castro was a moderate revolutionary?

Mr. OTEPKA. I was not aware of any statement to me that Wieland had told anyone that he considered Castro a Communist until you have just so informed me here now.

Mr. SOURWINE. Well, we have testimony. Were you aware as late as May 1959 and later Wieland was still reporting officially to his superiors that Castro was a moderate revolutionary?

Mr. OTEPKA. Yes, I am aware of that.

Mr. SOURWINE. If Wieland did in fact know and believe as he stated to friends that Castro was surrounded by Communists and probably was a Communist himself, was that then acceptable conduct for a responsible desk officer to state a different conclusion in his papers sent upstairs?

Mr. OTEPKA. I would say it was not acceptable conduct.

Mr. SOURWINE. One of the things a desk officer is hired for is to play his intellect and his expertise over the material that crosses his desk and let his opinions show in what goes further up, isn't that so?

Mr. OTEPKA. Yes, sir.

Senator HRUSKA. Did these facts come to your attention through the summary; namely, that there had been disclosures by Mr. Wieland from time to time from 1957 on as to his belief as to Castro and on the contrary his official reports saying he was not a Communist, was that all contained in the summary?

Mr. OTEPKA. My summary reflects information which I obtained from official documents indicating Wieland's belief as to whether or not Castro was a Communist and he expressed himself that there was no evidence he either was or was not, but I was not aware until this moment he had expressed himself otherwise; that is, saying that Castro was a Communist. This is news to me. I never saw any information indicating that Wieland had told friends that he thought Castro was a Communist.

* * * * *

Mr. SOURWINE. Mr. Otepka, do you conceive that Mr. Wieland completely separated his own personal opinion regarding Castro from his official opinion respecting Castro?

Mr. OTEPKA. I think he could.

Mr. SOURWINE. If he had done so wouldn't he have failed to discharge his responsibility to the Department?

Mr. OTEPKA. He would have.²³

²² State Department Security Hearings, pt. 5, pp. 616, 618.

²³ State Department Security Hearings, pt. 1, p. 106.

A correct appraisal of Fidel Castro was intimately involved with our attitude to the new Cuban Government headed by Rivero Aguero, elected in December 1958, as a successor to the Batista regime. Mr. Wieland was asked what steps were taken by the American Government toward the Aguero regime. He replied:

Mr. WIELAND. Ambassador Smith came up with a plan which he had received from Rivero Aguero to establish order in the country and, according to Rivero Aguero's analysis, should receive the support of the majority of the people of Cuba. Ambassador Smith discussed this, partly with me, but mainly with my superiors, and was told to go back to Cuba to get more essentials of this program from Rivero Aguero and determine some of its feasibility. If we could be shown that it would be a workable plan, it would have our support.

Ambassador Smith then sent word back from Cuba that Rivero Aguero had gone back on this, decided to simply fight out the issue with Castro in a shooting war.^{23a}

Mr. Wieland denied that there was any "plan for a coalition with Castro."

Mr. SOURWINE. Is this not a fact, that a discussion was had with respect to a coalition government in which Castro would have a part and when Rivero Aguero repudiated this suggestion and said he was going to fight Castro, the State Department made it clear that it would not support the Rivero Aguero government on that basis?

Mr. WIELAND. I know of no plan for a coalition with Castro, sir.^{23b}

Mr. Wieland denied there was any decision not to support Rivero Aguero.

Mr. SOURWINE. * * * It was a fact ultimately, was it not, that this Government did not give its support to the government of Rivero Aguero?

Mr. WIELAND. I do not think that point was finally decided.

* * * * *

Mr. SOURWINE. Did we ever do anything——

Mr. WIELAND. The revolution intervened.²⁴

WHAT WIELAND TOLD FRIENDS: FRANK BECERRA, JR.

Sam Shaffer was not the only friend to whom Wieland disclosed his knowledge of Castro's Communist connections. In 1949, in El Salvador, Wieland met Frank Becerra, Jr., and they became good friends, according to Becerra's testimony. In 1957, Becerra told the committee, Wieland visited El Salvador for a few days and during his visit went to the Becerra home for lunch. Here is Becerra's testimony about what happened:

Mr. BECERRA. * * * At the time, sitting around the table, the question of Castro came up. Castro was then still in the mountains. The situation was still undecided and my wife made the statement that she felt that Castro would be a wonderful thing for Cuba, and I remember distinctly Bill's reaction was, as far as I can recall his words, "June, just like a lot of housewives, you just don't know what you are talking about. Fidel Castro is a Communist. Fidel Castro will be the ruination of Cuba if he gets into power. Fidel Castro was one of the leaders of the famous uprising in Bogotá in 1948 at the time when Gaitan was assassinated."

At that time, as I understand it, Wieland was in the American Embassy.

Mr. SOURWINE. In Bogotá.

Mr. BECERRA. In Bogotá. And this was not a question that was disputed by us or anything like that. It was just a spontaneous statement that he made at the time. And I don't know what else went on from there in the conversation but I do remember very clearly that statement.

^{23a} State Department Security Hearings, pt. 5, pp. 661, 662.

^{23b} Ibid., p. 662.

²⁴ Ibid., p. 664.

Mr. Becerra was cross-examined about the incident:

Senator HRUSKA. Mr. Becerra, in connection with Mr. Wieland's reference to Bogotá, did he indicate that he was there or that he had any personal knowledge of those events in 1948?

Mr. BECERRA. Yes, sir. That is what he told me, that he was there.

* * * * *

Mr. SOURWINE. Mr. Becerra, in your letter of February 4 to Senator Hruska, you wrote this paragraph:

"My wife, like many people at the time, felt that Castro would be a good thing for Cuba, especially if it meant the elimination of Batista. Bill's very words——"

and you were referring to Wieland——

Mr. BECERRA. Yes, sir.

Mr. SOURWINE (reading):

"as closely as we can remember were, 'June, I am surprised at you. Like many housewives you are talking about something you do not know enough about. Castro will be the ruin of Cuba if he ever gets into power. Castro is a Communist and was one of the leaders of the famous uprisings in Bogotá which took place when I was at the Embassy there.' "

Mr. BECERRA. That is right.

Mr. SOURWINE. You speak of "we"—"as closely as we can remember." When you wrote this letter did you go over this language with your wife or——

Mr. BECERRA. Yes, sir.

Mr. SOURWINE. Or did she see it after you dictated it?

Mr. BECERRA. Yes, sir. We covered that. In fact, I almost went to the point of having her sign a statement to bring it over and then I thought, well, maybe they will take my word for it.

Mr. SOURWINE. You then continued in this letter you wrote to Senator Hruska:

"After that, on several occasions we discussed the Castro matter casually but Bill's opinion was always the same."

That is, he——

Mr. BECERRA. Exactly.

Mr. SOURWINE. He repeated that Castro was a Communist?

Mr. BECERRA. Exactly.

Mr. SOURWINE. Now, in the next paragraph you wrote:

"One question I have often asked myself is, if Bill Wieland knew, since the Bogotá uprising, that Castro was a Communist, then the entire staff of the U.S. Embassy at Bogotá at the time, including the Ambassador himself must have known this. How, then, could the State Department claim much later on that they had no knowledge of this?"

* * * * *

Mr. SOURWINE. Would you be surprised to know, although Mr. Wieland made this statement to you in 1957, as late as 1959 after Castro was in power Mr. Wieland was still writing official papers classifying Mr. Castro not as a Communist but as a moderate revolutionary?

Mr. BECERRA. That sounds strange. I am talking about 1957. A man's mind is a complicated thing, as you know.

Mr. SOURWINE. This is correct.

Mr. BECERRA. What happens between now and then is hard to know.

Mr. SOURWINE. But you are quite sure that this happened in 1957.

Mr. BECERRA. Yes * * *

* * * * *

Mr. SOURWINE. In your letter you said, "After that on several occasions we discussed the Castro matter casually but Bill's opinion was always the same." You didn't really mean that.

Mr. BECERRA. Oh, I must say that I cannot say that positively. We discussed the situation in Cuba. I always expressed my views, which have been very, very, very definitely anti-Castro. And I never got any refutation from Bill on that. If you want to put it that way, Mr. Sourwine, I can assert that.

Mr. SOURWINE. I don't want to put it any way. I just want you to tell us what the fact was.

Now, have you heard the theory that there were three elements to contend with in Cuba: the moderate revolutionaries headed by Fidel Castro, the pro-Communists headed by Che Guevara and Raul Castro, and as a third element,

the remnants of the Batista forces who still remained in the fringes of the revolution?

Mr. BECERRA. No, sir; I have never heard that theory.

Mr. SOURWINE. Would you say that theory gibes with what Mr. Wieland told you?

Mr. BECERRA. About Fidel Castro?

Mr. SOURWINE. Yes.

Mr. BECERRA. Well, we were discussing Fidel Castro at the time and no one else. In fact, at the time I didn't even know there was such a person as Che Guevara or his brother, Raul.

Mr. SOURWINE. And he simply told you that Fidel Castro was a Communist.²⁵

The above statement clearly conflicts with that which was brought out in subsequent questioning of Mr. Wieland:

Mr. SOURWINE. Did you not, in February of 1959, distinguish between Raul Castro, whom you consider a Communist, and what you termed the more moderate revolutionaries, including Fidel Castro?

Mr. WIELAND. No, sir, this was not my understanding of this. My view at that time was that Castro—Fidel Castro—wanted to hold power in Cuba, and if the moderate elements could swing him around by asserting more force in the country than the extremist elements and sufficient strength could be built up, he would go whichever way the strength lay to achieve his purposes, that there was a still more radical element that was bringing heavy pressures to bear on Fidel and the others in the more moderate group, trying to persuade them to take stronger action and more radical action, yes, and that there was a possibility that if Castro were convinced that the moderate elements would dominate, he would restrain the more radical elements to achieve his own ends.

* * * * *

I made the distinction in which I am trying to describe that Raul did represent a more radical wing still than Fidel. And if there were a possibility that Fidel saw his advantage would lie with the more moderate elements, if they could achieve sufficient strength, he would yield to the more moderate elements against the more radical elements in his own party.

* * * * *

Senator EASTLAND. You are saying you were not convinced that he was a Communist?

Mr. WIELAND. Yes, sir; in February 1959.

Senator EASTLAND. When were you convinced that he was a Communist?

Mr. WIELAND. It is hard to say exactly when I reached the conviction, sir, to be convinced, but the view began, or the conviction began to grow, I suppose, after he imposed the agrarian reform law of a more radical nature than that which had been proposed by his own cabinet, that Castro was reaching the point of no return and there would be not much more possibility of working further with him.

Senator EASTLAND. When was that?

Mr. WIELAND. That was around May of 1959, sir.

Senator EASTLAND. But you had told Sam Shaffer in the winter of 1957-58 that Fidel Castro was probably a Communist and was certainly surrounded by Communists?

Mr. WIELAND. I think I was saying that I would not be surprised if he were, but we didn't have the certainty that he was.²⁶

Wieland says U.S. aided Batista

Mr. Wieland actually testified that he thought the U.S. Government as a whole did "as much as we could" to assist President Batista at the time Castro was still trying to take over the Cuban Government. Here is the statement in context:

Senator JOHNSTON. Going back just a little, what was your position, though, when Castro was down there trying to take over the government?

Senator EASTLAND. Well, he told Sam Shaffer he thought he was Communist.

²⁵ State Department Security Hearings, pt. 1, pp. 77-79.

²⁶ Ibid. pt. 5, pp. 646, 647.

Mr. WIELAND. We were hoping he would not take over the Government of Cuba, sir. It was our hope that efforts would be made to keep him out of the government in Cuba.

Senator JOHNSTON. What did you do to assist Batista, then?

Mr. WIELAND. I think we did as much as we could, the Government as a whole, to assist Batista.

Senator HRUSKA. Including the cessation of the shipment of arms to Batista? Was that of any assistance to Batista? That was the State Department's action and their decision. Do you mean that is one of the things we did to help Batista?

Mr. WIELAND. Sir, the government of Batista was near the end of its term. The hope was that the government under Batista would take what steps they could to help toward the transition to a fair election so there would be no violence in Cuba and Castro would be kept isolated to the hills.

Senator EASTLAND. Who was responsible, now? What was your recommendation on the boycott of Batista, the refusal to ship him arms?

Mr. WIELAND. After the Batista government used our grant-aid equipment without prior consultation under the terms of an agreement with the United States, sir, and the matter had been taken up by my superiors with the Cuban Ambassador and by Ambassador Smith in Havana and the violations continued without any consultation with the Government of the United States, I recommended at that time that we withhold the shipments quietly, pending a solution of this particular situation.²⁷

A few minutes later, this colloquy occurred:

Senator EASTLAND. * * * My question is whether you recommended the withholding of arms which were to be used to prevent Cuba from being taken over by a man that you believed to be a Communist. That was my question. And I think there is no point in arguing the thing.

The record will just have to speak on what your answers are. I think it demonstrates that.

Mr. WIELAND. I recommended, sir, that we withhold the grant aid until we could get the situation clarified and obtain the compliance of the Government of Cuba to a mutual-assistance agreement between the two countries.

Senator EASTLAND. When did we withhold shipment of arms?

Mr. WIELAND. In March of 1958, as I recall.

Senator EASTLAND. It was never changed?

Mr. WIELAND. No.

Senator JOHNSTON. Is it not true that the withholding of arms was the main turning point in putting Castro in power?

Mr. WIELAND. I don't think so, sir.

Senator JOHNSTON. Why not? If Batista had had arms and all, do you think he would have taken over?

Mr. WIELAND. Yes, sir; the arms that were going to Batista were going in large part to the Castro or to the revolutionary elements in Cuba, anyway. The Batista government was getting other arms elsewhere also.

Senator EASTLAND. Yes, they were getting arms elsewhere, that is true. Now, did you know or have reason to believe that Castro was getting arms from the Soviet Union?

Mr. WIELAND. No, sir.

Senator EASTLAND. But you know now he admits it now, do you not?

Mr. WIELAND. Yes, sir.

Senator EASTLAND. You never received information from the military officials in Cuba of a shipment of Russian equipment to Castro?

Mr. WIELAND. There were reports on that, sir, but I don't recall any confirmation.

Senator EASTLAND. Well, there were reports, but you ignored them, did you not?

Mr. WIELAND. I recall hearing that, sir.

Senator EASTLAND. You heard it?

Mr. WIELAND. I heard it.²⁸

Wieland's evaluation of Castro

Mr. Wieland's first testimony about his feelings respecting Fidel Castro was as follows (on January 9, 1961):

²⁷ State Department Security Hearings, pt. 5, pp. 650, 651.

²⁸ Ibid., pt. 5, p. 65.

Chairman EASTLAND. When did you discover Castro was a Communist? You have told me you had always been against him.

Mr. WIELAND. Yes, sir.

Chairman EASTLAND. And you told me you didn't know he was a Communist.

Mr. WIELAND. Yes, sir.

Chairman EASTLAND. Why were you against him at first?

Mr. WIELAND. I have become convinced, sir, that Mr. Castro is either a Communist himself or is so completely——

Chairman EASTLAND. At first you said that you were against Castro.

Mr. WIELAND. Yes, sir.

Chairman EASTLAND. Before you knew he was a Communist?

Mr. WIELAND. Yes, sir.

Chairman EASTLAND. Why were you against him at first?

Mr. WIELAND. Because I regarded Mr. Castro as a very irresponsible, radical demagog who was a dangerous man, and certainly represented no good to the United States or to Cuba, sir.

Chairman EASTLAND. You knew about his pro-Marxist record?

Mr. WIELAND. Yes, yes indeed.²⁹

Wieland says he opposed Castro

The first time he was asked about his position with regard to Castro, Wieland testified he was opposed to him. This was on January 9, 1961.

Chairman EASTLAND. Were you favorable to Castro during the revolution in Cuba?

Mr. WIELAND. No, sir.

Chairman EASTLAND. You were opposed to him?

Mr. WIELAND. I was, sir.³⁰

What Wieland knew about Raul

Here is Wieland's testimony on February 8, 1961, in response to a question by Senator Johnston of South Carolina:

Senator JOHNSTON. You mean you didn't know of his brother's connections prior to that, then?

Mr. WIELAND. We knew that his brother, sir, was a leftist; we knew that he had been to a Communist congress. We had conflicting reports on whether he had gone as a Communist himself, we had opposing indications that he had gone on his own, turning down a Communist invitation, and we tried to get information from Prague to substantiate or contradict some indication that he had actually taken an anti-Communist position at that congress. We never did get that information.³¹

Wieland distinguishes between "Communist" Raul and "moderate" Fidel

Questioning about a report allegedly prepared by Mr. Wieland in February of 1959, distinguishing between Raul Castro, whom he termed a "Communist," and Fidel Castro, whom he termed a "moderate revolutionary," brought out the following testimony:

Mr. SOURWINE. You will recall, we have had some discussion here earlier about whether you ever held the view that Fidel Castro was a moderate?

Mr. WIELAND. Yes, sir.

Mr. SOURWINE. I think you said that you did not hold that view.

Mr. WIELAND. Yes, sir.

Mr. SOURWINE. Did you not, yourself, call Fidel Castro a moderate revolutionary as late as 1959?

Mr. WIELAND. No, sir; not to my knowledge.

Mr. SOURWINE. Did you not, in February of 1959, distinguish between Raul Castro, who you consider a Communist, and what you termed the more moderate revolutionaries. Including Fidel Castro?

²⁹ State Department Security Hearings, pt. 5, pp. 505, 506.

³⁰ Ibid., pt. 5, p. 504.

³¹ Ibid., pt. 5, p. 586.

Mr. WIELAND. No, sir; this was not my understanding of this. My view at that time was that Castro—Fidel Castro—wanted to hold power in Cuba, and if the moderate elements could swing him around by asserting more force in the country than the extremist elements and sufficient strength could be built up, he would go whichever way the strength lay to achieve his purposes, that there was a still more radical element that was bringing heavy pressures to bear on Fidel and the others in the more moderate group, trying to persuade them to take stronger action and more radical action, yes, and that there was a possibility that if Castro were convinced that the moderate elements would dominate, he would restrain the more radical elements to achieve his own ends.

Senator EASTLAND. Why would he do that when he was a Communist?

Mr. WIELAND. To remain in power, sir. At that time the hope was that the country hadn't gone completely to the Communists and the situation might still be saved if sufficient forces could be generated to save it.

Mr. SOURWINE. I am not sure from your answer whether it is true or whether you are stating that it was true that you did, in February 1959, distinguish between Raul Castro, whom you considered a Communist, and what you call the more moderate revolutionaries, including Fidel Castro. Did you make that distinction?

Mr. WIELAND. Yes, sir; but not in the sense which I understood here. I made the distinction in which I am trying to describe that Raul did represent a more radical wing still than Fidel. And if there were a possibility that Fidel saw his advantage would lie with the more moderate elements, if they could achieve sufficient strength, he would yield to the more moderate elements against the more radical elements in his own party, not because of his own view but—

Mr. SOURWINE. Are you saying that at that time you knew that Fidel Castro was a Communist, but that you considered he was more moderate than Raul?

Mr. WIELAND. No, sir; I am not saying that I knew Fidel was a Communist, but that, although there was strong influence on Castro, if he could be convinced that the hope lay with the more moderate elements, he might throw the more radical elements overboard in favor of the moderates in the 26th of July movement.

Mr. SOURWINE. You did distinguish between Raul, whom you knew was a Communist and Fidel, about whom you were not convinced that he was a Communist?

Mr. WIELAND. Yes, sir.³²

And a little later the following colloquy took place:

Mr. SOURWINE. Did you not write a memorandum to Mr. Rubottom in February 1959 dealing with our short-range position relative to Cuba?

Mr. WIELAND. Yes, sir.

Mr. SOURWINE. In that memorandum, did you not identify three main groupings which you said had come into being in Cuba and identify them as, one, radical elements of the 26th of July movement led by Che Guevara and Raul Castro, saying that this faction contained elements which were pro-Communist and also had revolutionary fervor?

Mr. WIELAND. Yes, sir; that sounds familiar.

Mr. SOURWINE. And did you not designate the second main grouping as Fidel Castro and other elements in the 26th of July movement, whom you said are oriented primarily toward moderation and the establishment of a prosperous, democratic Cuba with an honest government?

Mr. WIELAND. Yes, sir; that sounds familiar, too.

Mr. SOURWINE. And did you not say that this group has shown some signs of dissociating itself from the radical wing of the 26th of July movement?

Mr. WIELAND. Yes, sir.

Mr. SOURWINE. And then you identified the third main grouping as a more mature and moderate group composed of Miro Cardona and others?

Mr. WIELAND. Yes, sir.³³

Wieland documents denied to committee

The committee was denied access to documents which would have shown the official attitude of Mr. Wieland with respect to Castro, and the recommendations he made to his superiors.

Mr. SOURWINE. Did I understand you correctly, Mr. Jones, to say that you have been instructed that the committee is to be refused access to any of the

³² State Department Security Hearings, pt. 5, pp. 646, 647.

³³ Ibid., pt. 5, p. 649.

documents that we have asked for which Mr. Wieland wrote or in the preparation of which he assisted?

Mr. JONES. That is right, Mr. Sourwine, yes, sir.³⁴

Wieland on "Che" Guevara

In his testimony on February 2, 1962, Mr. Wieland was asked by Senator Hruska:

Is there any question in your mind, or could there possibly have been any question in your mind at that time, namely, August 1959, of the role of "Che" Guevara?

Mr. Wieland replied:

No, sir; we knew that "Che" Guevara was active there. We also knew Raul Castro was active there.

Senator Hruska continued:

I mean at the time, was Guevara's role as a Communist evidenced to you?

To which Wieland responded as follows:

I am saying, rather, we strongly believed that he was a Communist himself * * * But that he was a Communist was certainly our conclusion.³⁵

Wieland's statements on knowledge of Castro inherently contradictory

It is interesting that Mr. Wieland, persisting in his attitude of "I don't remember," nevertheless declared:

If, at some time prior to the briefing of Dr. Eisenhower before his departure for Mexico, I had the view that there were Communists surrounding Castro and there was a possibility he was a Communist himself I would say, yes.³⁶

This comes close to being an assertion, and must have been intended to convey the impression, that at no time prior to the Eisenhower briefing (May 1959) did Wieland have the view that there were Communists surrounding Castro and that there was a possibility he was a Communist himself.

A little later on in the same hearing session, Mr. Wieland was told the committee had an allegation to the contrary, but he persisted in his statement that he did not remember.

Mr. SOURWINE. Well, the allegation which we have, sir, is that while he was still in the Sierra Maestra, that was in 1958, you stated that Herbert Matthews and other reporters were not doing a very good job writing stories that made Castro look like a hero because the fact was that Castro was surrounded by Communists and might be a Communist himself. Did you make such a statement?

Mr. WIELAND. I just do not recall.³⁷

At a subsequent meeting of the subcommittee, on February 2, 1962, Mr. Wieland was questioned with regard to the testimony of Samuel Shaffer of Newsweek.

Mr. SOURWINE. Now, you recall having been questioned previously with respect to whether, in late 1957 or early 1958, you knew that Castro was surrounded by Communists and was probably himself a Communist? * * * What is your present recollection with respect to that?

Mr. WIELAND. I don't recall having known that he was a Communist then. * * *

* * * * *

Mr. SOURWINE. You will recall that you were asked if you had told a newspaperman or correspondent in late 1958 that Castro was surrounded by Communists and was probably himself a Communist.

³⁴ State Department Security Hearings, pt. 1, p. 43.

³⁵ Ibid., pt. 5, p. 626.

³⁶ Ibid., pt. 5, p. 604.

³⁷ Ibid., pt. 5, p. 604.

Mr. WIELAND. Sir, I don't recall that statement.* * *

Mr. SOURWINE. Do you know Sam Shaffer?

Mr. WIELAND. Yes, sir.

* * * * *

Mr. SOURWINE. Mr. Shaffer * * * said that you said and quoted you, "On the other hand, Fidel Castro, whom many of you newspapermen are romanticizing, is surrounded by Communists." Mr. Shaffer said that you said, "I don't know whether he himself is a Communist, but I am certain that he is subject to Communist influences." * * * Do you remember such a conversation with Mr. Shaffer?

Mr. WIELAND. I remember discussing the danger of Castro with Mr. Shaffer as well as with others, sir, and trying to point out that the press was glamorizing him and painting him up as a popular hero and the champion of the underprivileged and the oppressed peoples, whereas in truth, I considered that he was a greater threat to Cuba itself, as well as the United States, than the then Government of Cuba under Batista, which was the alternative.

Mr. SOURWINE. Mr. Shaffer said this conversation with you was during the winter of 1957-58. * * * This would seem to indicate that about that time, roughly a year before Mr. Castro came into power, you did know, because you told Shaffer that Castro himself was a Communist and was probably surrounded by Communists.

Mr. WIELAND. * * * I did not know how much of a Communist Castro himself was but I did know there was a danger of Communists dominating the entire movement. * * *³⁸

What Wieland knew about Castro in 1958

Testifying on February 8, 1961, Mr. Wieland discussed some of the warnings which had come to him in 1958 respecting Fidel Castro's Communist affiliations.

Mr. SOURWINE. Did you receive warnings or a warning from anyone in 1958 that Castro had Communist Party affiliations?

Mr. WIELAND. Yes, sir; there were various persons that were saying that at the time.

Mr. SOURWINE. Credible persons?

Mr. WIELAND. Well, let's see, I think Dr. Nunez Portuondo had that point of view. I think that we were receiving information also or I should say the Ambassador's views also were that communism was growing in the Castro movement.

Mr. SOURWINE. That was Ambassador Smith?

Mr. WIELAND. Yes, sir.

Mr. SOURWINE. Do you consider Nunez Portuondo a knowledgeable and reliable person in that area?

Mr. WIELAND. I think he is a knowledgeable person, yes, indeed.

Mr. SOURWINE. Do you consider him reliable?

Mr. WIELAND. I think he was reliable as he could be; yes, sir.

Mr. SOURWINE. Did you receive any intelligence; that is, warnings from intelligence sources, about Communist Party affiliations surrounding Castro in 1958?

Mr. WIELAND. Evidence or information that the Communists were trying to infiltrate the movement; yes, sir. But the indications from the intelligence community were that they were not being too successful at that time.

Mr. SOURWINE. In other words, you didn't know about Che Guevara in 1958?

Mr. WIELAND. Being a Communist definitely, no, sir; that he was leftist in tendencies, I do recall.

Mr. SOURWINE. You didn't know about Alberto Bayo?

Mr. WIELAND. Being a Communist again, no, I didn't.

Mr. SOURWINE. You didn't know about Raul having been to Moscow?

Mr. WIELAND. To Moscow, I didn't recall knowing that he had been to Moscow. I do recall that he had been to a Communist congress in Prague, as I recall.

Mr. SOURWINE. You did recall that?

Mr. WIELAND. And our intelligence community was following these developments and reporting to us.³⁹

³⁸ State Department Security Hearings, pt. 5, pp. 615, 617.

³⁹ Ibid., pt. 5, pp. 571, 572.

It is significant that on this occasion Mr. Wieland did recall (and himself first brought up) that Raul Castro had attended a Communist congress in Prague.

Wieland was asked about other warnings.

Mr. SOURWINE. Did you or do you know Miguel Angel Quevedo?

Mr. WIELAND. Yes, sir: I met him once or twice.

Mr. SOURWINE. Is that Quevedo?

Mr. WIELAND. He was the one who was the publisher of the Bohemia Libre magazine.

* * * * *

Mr. WIELAND. Yes, sir; I met him in New York. I do not know if I had known him before, but I did meet him in New York in 1958 at Columbia University when he received the Moors-Cabot Award.

Mr. SOURWINE. Did Quevedo warn you in November of 1958 that Castro should be prevented from gaining power, telling you that he had known Fidel as a boy and knew him to be an irresponsible person and to have Communist Party affiliations?

Mr. WIELAND. I don't recall that conversation; no, sir.

Mr. SOURWINE. You made no report of any such conversation?

Mr. WIELAND. I do not recall any such conversation.

Mr. SOURWINE. Did you or do you know Ricardo Artigas Ravel?

Mr. WIELAND. I think so.

Mr. SOURWINE. Do you recall what position he held?

Mr. WIELAND. No, sir.

Mr. SOURWINE. Mr. Ravel from 1944 to 1948 was Chief of the Bureau of Investigation of the Cuban National Police.

Mr. WIELAND. Yes. I think he did tell me that. I think I did know him.

Mr. SOURWINE. Do you or did you know Gen. Jorge Garcia-Tunon?

Mr. WIELAND. Yes, sir.

Mr. SOURWINE. He was formerly of the Cuban Army?

Mr. WIELAND. Yes, sir.

Mr. SOURWINE. Did these men visit you in 1957 and 1958?

Mr. WIELAND. I do not recall their visiting in 1957. I do recall 1958.

Mr. SOURWINE. On more than one occasion in 1958?

Mr. WIELAND. Yes, sir.

Mr. SOURWINE. Did they come to you to bring you documents, articles, reports, and other factual material with respect to the Communist connections of Fidel Castro?

Mr. WIELAND. Sir, I don't recall any documents, no. But I do recall very definitely that General Garcia did take a strong position against Castro, as did Artigas.

Mr. SOURWINE. You don't recall that they brought you any documents or articles or written reports.

Mr. WIELAND. I do not recall documents; no, sir.⁴⁰

Wieland heard Ambassador Smith tell of Castro's Communist ties

Mr. SOURWINE. Aside from messages to the Department, copies of which came to your desk, did you at any time ever receive any warnings or warning from Ambassador Earl E. T. Smith respecting Castro's Communist connections or associations?

Mr. WIELAND. When he came to the Department; yes, sir.

Mr. SOURWINE. Did you report to your superiors respecting his warnings on those occasions when he came to the Department?

Mr. WIELAND. Yes, sir. But he would already have made those suggestions or those observations to my superiors, in any event.

⁴⁰ In his testimony on Feb. 2, 1962, Mr. Wieland said he doubted that Ricardo Artigas Ravel and Gen. Jorge Garcia-Tunon visited his office as many as six or seven times during 1957 and 1958. General Garcia Tunon, he said, "was in several times * * *. Artigas was in more frequently."

He testified further:

"Every now and then Artigas would leave some clipping or other material or notes of his own. Garcia-Tunon, I remember, wrote a letter, perhaps two, giving his views also on the Cuban situation and Fidel Castro being a Communist."

Mr. Wieland denied he had told them the material they were bringing was of no particular importance or that under the Atlantic Pact, the United States could not interfere, even if Castro were a Communist.

The material, he said, would have been evaluated by the intelligence research people, not by him. He said he may have told the visitors that the United States could not intervene in Cuba "because of our hemisphere commitments." State Department Security Hearings, pt. 5, pp. 572, 573.

Mr. SOURWINE. Were you present, Mr. Wieland, on an occasion in November when Ambassador Smith told Robert Murphy that there was convincing proof of Fidel Castro's pro-Communist ties?

Mr. WIELAND. Mr. Sourwine, I can't be precise here. I do not recall if I attended that meeting with Mr. Murphy or not.

Mr. SOURWINE. You are unable to tell us whether Mr. Snow was there?

Mr. WIELAND. I do not recall having attended the meeting.

Mr. SOURWINE. You do not recall having been present when Ambassador Smith said this?

Mr. WIELAND. I was present—it comes back. I did attend one meeting with Ambassador Smith, and I do not recall whether Mr. Rubottom or Mr. Snow were there, and Mr. Murphy. I recall one meeting there, yes, that might have been in November of 1958.

Mr. SOURWINE. Was that a meeting at which Ambassador Smith said that there was convincing proof of Fidel Castro's pro-Communist ties?

Mr. WIELAND. Sir, as I recall that conversation, and I must admit I can't be precise, as I recall that conversation, Ambassador Smith said he was convinced by Castro's actions that he had Communist ties, but did not have proof of such.

Mr. SOURWINE. Very good. That was said to Mr. Murphy?

Mr. WIELAND. That is my recollection, sir.

Mr. SOURWINE. I see. And Mr. Snow was there?

Mr. WIELAND. Either Mr. Snow or Mr. Rubottom.

Mr. SOURWINE. Yes, sir.

Now, do you know that former Ambassador Smith has stated to this committee, and I quote:

"We helped to overthrow the Batista dictatorship which was pro-American, only to install the Castro dictatorship which is pro-Russian."

Mr. WIELAND. Yes, sir.

Mr. SOURWINE. Do you take issue with that statement?

Mr. WIELAND. I can't, sir.

When Wieland knew about Castro

But during his testimony on February 8, 1961, after admitting contemporary knowledge of Castro's letter of December 14, 1957, to Cuban exiles in Miami, Mr. Wieland's testimony was as follows:

Mr. SOURWINE. If I understand your testimony correctly, it was still not apparent at this time, and it did not become apparent to you until considerably later, that Castro was surrounded by Communists, might even be a Communist?

Mr. WIELAND. The reports we were receiving that time, sir, were that the Communists were trying to infiltrate the movements, and without too much success.

Mr. SOURWINE. When was it that you first learned that Castro was surrounded by Communists in the sense that they were influential in his organization? Was that after he came into power?

Mr. WIELAND. Yes, sir; unfortunately.

* * * * *

Mr. SOURWINE. Would your knowledge that Castro was surrounded by Communists have been at about the same time that you mentioned earlier, perhaps the middle of 1959?

Mr. WIELAND. That the Communists were controlling his movement, I would say, yes, sir.

Mr. SOURWINE. And on the question of his being surrounded by Communists, did that knowledge come a little earlier? You said it didn't come until after he was in power.

Mr. WIELAND. That the Communists were infiltrating and encroaching on the ground surrounding him was apparent, I would say, around the second quarter of 1959, perhaps growing indications of it in the first quarter.

Mr. SOURWINE. But not apparent prior to January 1, 1959; that is, not apparent prior to the time he came down out of the mountains?

Mr. WIELAND. No, sir. The indications we had were that the 26th of July was still resisting Communist infiltration.⁴¹

⁴¹ State Department Security Hearings, pt. 5, pp. 572, 573.

When Wieland became convinced Castro was Communist

Mr. Wieland subsequently hedged still further on his statement as to when he first came to consider Fidel Castro a Communist. Under questioning initiated by Senator Hruska, the following testimony was recorded:

SENATOR HRUSKA. In reply to Senator Eastland's questions you answered that you first considered Castro a Communist in May 1959, when he declared his agrarian reform plan. Do I recall that testimony properly?

MR. WIELAND. What I was trying to say, sir, is there were growing suspicions of Castro as a Communist, and this certainly advanced those suspicions considerably, yes. But to reach a clear-cut conviction that he was a Communist, I could not say when.

SENATOR HRUSKA. Mr. Wieland—I am going to ask, Mr. Chairman, that the previous answer be read—because this is a different answer than the one you gave Mr. Eastland. He asked you when you first concluded that Castro was a Communist, and you said in May 1959, when he announced his agrarian reform. Now, I would like to know if you want to change that answer, because that is what the answer is in the record.

MR. WIELAND. Isn't this still on the record?

SENATOR HRUSKA. Here is the lady. We will have to get it typed up. I just want you to have an opportunity to see that what you told Mr. Eastland, when he was in this room, is not what you want to tell me now after Mr. Eastland has left this room.

MR. WIELAND. It has not anything to do with Mr. Eastland's being here, sir. What I was trying to say here was that the conviction was growing that this man might be a Communist, and it was certainly advanced substantially by the Agrarian Reform Act of the Castro regime over the decision of the Cabinet, itself, in Cuba.

SENATOR JOHNSTON. You did not use that term, though, "substantially." You said "conclusive." You used the word "conclusive," reached the conclusion.

MR. WIELAND. I know there was some exchange there, sir. I was trying to say, whether as a matter of conviction, when I reached the conviction is hard to say, but the conviction was growing from about that time.

SENATOR HRUSKA. Mr. Chairman, I should like to have put at this place in the record Senator Eastland's question on that point and the witness' answer, and I would like to repeat Senator Eastland's question.

When did you first conclude that Castro was a Communist?

MR. WIELAND. It is hard to answer definitely. The conviction was growing and advanced substantially as of the time of the agrarian reform law of Castro. Subsequently acts by Castro made it more and more apparent that he was submitting more and more to Communist orientation. When I reached a firm conviction that he was a Communist is hard to say.

(The question of Senator Eastland and the answer of Mr. Wieland, referred to, are as follows:)

SENATOR EASTLAND. When were you convinced that he was a Communist?

MR. WIELAND. It is hard to say exactly when I reached the conviction, sir, to be convinced, but the view began, or the conviction began to grow, I suppose, after he imposed the agrarian reform law of a more radical nature than that which had been proposed by his own Cabinet, that Castro was reaching the point of no return and there would be not much more possibility of working further with him.

SENATOR EASTLAND. When was that?

MR. WIELAND. That was around May of 1959, sir.

SENATOR HRUSKA. Did you believe him when he said he was a Communist only recently?

MR. WIELAND. Oh, yes, sir.

SENATOR HRUSKA. That convinced you?

MR. WIELAND. Oh, yes, sir, no question of that.⁴²

⁴² State Department Security Hearings, pt. 5, pp. 586, 587.

When Wieland knew Castro government was Communist dominated

During his testimony on February 8, 1961, Mr. Wieland said he had concluded about June of 1959 that the Castro Government in Cuba was Communist dominated.

Is there any doubt in your mind that the Cuban Government under Castro is a Communist-dominated government, at least?

Mr. WIELAND. No, sir; none at all.

Mr. SOURWINE. When did you reach the conclusion that it was?

Mr. WIELAND. Sir, I think the evidence of growing Communist control of the Castro revolution became apparent about the time that the Castro group in the 26th of July was running its own behind-the-scenes Cabinet, and throwing aside the recommendations for an agrarian reform program which the Cabinet at that time was drawing up.

Mr. SOURWINE. When was that?

Mr. WIELAND. That was in June, as I recall, of 1959.

Mr. SOURWINE. Now you are talking about when any well-informed person might have reached this conclusion.

My question was a wholly subjective one which only you can answer. When did you reach this conclusion?

Mr. WIELAND. I reached the conclusion, I would say, sir, about that time.⁴³

WIELAND DEFINITION OF COALITION

In his description of the State Department's objective in Cuba, Mr. Wieland used words which counsel found familiar:

Senator DODD. Just what was our problem?

Mr. WIELAND. Our problem, sir, was a desire to see an effective solution to Cuba's political strife that would assure a democratic transition and the support of the big bulk of the Cuban people who hoped for peace in Cuba, for a political solution that would have eliminated any major threat from the violence which was at that time primarily being waged by the Castro forces in the eastern part of the country.

Senator DODD. Did this include acceptance of Castro?

Mr. WIELAND. No, sir. Castro at that time was still a small figure in the east, and we were hoping that the responsible institutions of Cuba could be brought into a responsible formula to solve this national problem in Cuba without getting us involved unduly in their internal dispute.

Mr. SOURWINE. Mr. Chairman, with the Chair's permission, I would like to say just a brief word of explanation about why I jumped at the words "political solution" with the objective of a broader basis of support.

These phrases are familiar to me. They are the phrases which were used by John Carter Vincent and others to describe the policy that was worked out in 1945 with regard to China. They were used repeatedly, over and over again.

We know what that policy meant. It did mean a coalition government and eventual Communist domination, and I wondered if anything of that sort had been in mind with regard to Cuba; that is why I jumped at the words.

Mr. WIELAND. Well, thank you, Mr. Sourwine, then for permitting me to explain. We were not thinking of dictating what would be the type of government. There were several attempts made in Cuba, to interest the responsible elements in the country to give their support to the government and have the country, in turn—have the government, in turn, seek ways of mitigating the violence so that there would be responsible support of the Cuban Government that would assure a reasonably acceptable election to the Cuban people.⁴⁴

WIELAND SAYS "OTHER ELEMENTS" TOOK OVER BEFORE CASTRO

Attempting to defend himself against the charge that "you recommended withholding of the shipment of arms to Batista to fight a man that you know was a Communist and to prevent a Communist

⁴³ State Department Security Hearings, pt. 5, pp. 574, 575.

⁴⁴ State Department Security Hearings, pt. 5, p. 544.

takeover in Cuba," Wieland asserted, during his testimony on February 2, 1962, that—

In 1958 I did not know that Castro was a Communist. In 1958 there were other revolutionary forces at work in Cuba besides Fidel Castro. Fidel Castro came into power in January of 1959 on a wave or triumphal march across the country after other elements had already taken over the Government of Cuba.

This attempted defense must fall in the light of history.⁴⁵ Batista fled on January 1, 1959. Fidel Castro called for the appointment of a government headed by Dr. Manuel Urrutia. On January 2, 1959, Urrutia was named provisional President, and on January 3 he named Fidel Castro as commander in chief of Cuban armed forces. Fidel Castro actually entered Havana on January 8, 1959. There can be no question whatsoever that the Provisional Government of Cuba was a Castro government, the instrument of the 26th of July Revolutionary Movement.

Throughout the world, the press "bannered" the Castro takeover. The New York Times of January 2, 1959, carried the headline "Batista Regime Flees Cuba; Castro Moving To Take Power; Mobs Riot and Loot in Havana." The Montreal Gazette of January 2 announced "Castro Cuban Victor; Batista Escapes Island."

The Times of January 3 headlined "Castro Names President as Rebels Enter Havana; Street Clashes Continue"; and on January 4, "Castro Heads Cuba's Armed Forces; Regime Sworn In." The Melbourne, Australia, Herald of January 3 had the headline "Castro's Right on Top; Havana Cheers as Guerrillas Stream In."

Wieland says we didn't recognize Castro

Wieland attempted to make a distinction between recognition of the Castro government and recognition of the government which succeeded Batista. Here is how the matter came up.

Mr. SOURWINE. These facts are true, are they not, from what you know now: There was an elected government in December of 1958 in Cuba; that was the Rivero Aguero government, right?

Mr. WIELAND. Yes, sir.

Mr. SOURWINE. In December, late December of 1958, the United States, through its Ambassador—told Batista that he would have to leave right away. This is the testimony of Ambassador Smith?

Mr. WIELAND. Yes.

Mr. SOURWINE. Which you say you have read and which you say you do not know anything contrary to?

Mr. WIELAND. I know nothing contrary; yes, sir.

Mr. SOURWINE. All right.

Mr. WIELAND. But I do not know of my own knowledge.

Mr. SOURWINE. All right.

Then, thereafter, the United States did nothing to help bring the Rivero Aguero government into power but did, within a week or 10 days thereafter, recognize the government of Fidel Castro at a time when he was physically still up in the mountains; is that not true?

Mr. WIELAND. No, sir. Recognized the government, which did not then include Fidel Castro in any cabinet position.

Senator EASTLAND. When did we recognize Fidel Castro's government?

Mr. WIELAND. I do not recall the exact date. I think it was January 7 or 9, 1959.

Senator EASTLAND. We recognized—

Mr. WIELAND. Or January 10.

Senator EASTLAND. That was a week after he assumed power?

Mr. WIELAND. A week or 10 days, yes, sir.

⁴⁵ EDITOR'S NOTE: The following is excerpted from a "Chronology of U.S. Relations with Cuba from 1957 to 1962," prepared by the Department of State. (See also Appendix, pt. 13, Communist Threat to the United States Through the Caribbean.) When the Castro regime came to power in 1959, the United States looked upon it with sympathy, recognized it almost immediately, and welcomed its promises of political freedom and social justice for the Cuban people.

Senator EASTLAND. Did you recommend recognizing Castro's government?

Mr. WIELAND. I was in on some of the discussions concerning recognition, yes, sir; but most of them took place higher than I.

Senator EASTLAND. I want you to answer my question.

Mr. WIELAND. I believe I was among those, my recollection is that I also recommended recognition; yes, sir.

Mr. SOURWINE. Did you recommend—

Mr. WIELAND. Pardon me, sir, but the new government, not Fidel Castro.

Senator EASTLAND. The new government. Well, you knew Castro controlled the new government?

Mr. WIELAND. No, sir. The hope was that Castro did not yet control the new government; that the moderates might be able to keep him—

Senator EASTLAND. Every newsboy in this country knew it. Do you not realize that?

Mr. WIELAND. I realize there was danger, sir.

Senator EASTLAND. What?

Mr. WIELAND. There was danger, sir.

Senator EASTLAND. If you did not realize it, every person in this country, except yourself, knew that Castro could dominate that new government.

Mr. WIELAND. Well, sir, I think that the business community in Havana was among those recommending prompt recognition in order to avoid Castro from assuming too great a position in it.

Mr. SOURWINE. Mr. Wieland?

Mr. WIELAND. Yes, sir?

Mr. SOURWINE. What was the principal movement or power supporting the government which we recognized in January of 1959 in Cuba?

Mr. WIELAND. The various revolutionary elements.

Mr. SOURWINE. The principal supporting factor was the 26th of July movement?

Mr. WIELAND. It developed to be the principal movement, yes, sir; but at that time, no, there were the various elements of the revolutionary junta and not just Fidel Castro. The elements who supported that particular government are now, including some of those of the 26th of July, in jail or in exile or dead.

Mr. SOURWINE. The action we took was hailed by the press of the world as a recognition of the Castro government, was it not, the recognition of the success of the Castro revolution, the 26th of July movement; is that not true?

Mr. WIELAND. It became so.

Mr. SOURWINE. Immediately upon—

Mr. WIELAND. As Castro took over and threw out the initial Prime Minister and so forth, yes.

Mr. SOURWINE. It was immediately hailed, as soon as we recognized the government, it was immediately hailed as success for the 26th of July movement, was it not, all over the world?

Mr. WIELAND. The 26th of July capitalized on it very strongly; yes, sir.⁴⁶

Although a man in Wieland's official position certainly should have known that Urrutia was Castro's choice to head the new Provisional Government of Cuba, Wieland contended that he did not "realize" that Castro controlled the new Government until "he threw out the President."^{47 48}

Here is the testimony on this point:

Senator EASTLAND. When did you realize that Castro controlled the new government?

Mr. WIELAND. When he threw out the President.

Senator EASTLAND. When was that?

Mr. WIELAND. Urrutia.⁴⁸

Senator EASTLAND. When was that?

Mr. WIELAND. I do not remember the exact date, sir.

Senator EASTLAND. Approximately when was it?

⁴⁶ State Department Security Hearings, pt. 5, pp. 665, 666.

⁴⁷ EDITOR'S NOTE: The following is excerpted from a "Chronology of U.S. Relations with Cuba from 1957 to 1962," prepared by the Department of State. (See Appendix, pt. 13, Communist Threat to the U.S. Through the Caribbean.) "January 2, 1959: Fidel Castro proclaims provisional government headed by Manuel Urrutia as President."

President Urrutia was replaced by Dorticos on July 18, 1959, more than 6 months after Castro had entered Havana to take up the highest position of power in the new government under the title "Commander in Chief of Cuban Armed Forces."

⁴⁸ State Department Security Hearings, pt. 5, p. 666.

Mr. WIELAND. President Urrutia—I can remember the circumstances more or less, but I do not recall the date. President Urrutia went on the air to denounce the Communist threat which was emerging or getting stronger in Cuba, and was promptly denounced by Castro, and he submitted his resignation and was forced out.

Senator EASTLAND. You realized then that Castro controlled the new government?

Mr. WIELAND. Yes, sir.

Senator EASTLAND. All right.

Now, what was your recommendation on your policy toward that new government at that time?

Mr. WIELAND. It was a continuing government, sir, and the matter of recognition did not then arise.

Senator EASTLAND. I mean support of that government.

Mr. WIELAND. That we should try and support the moderates and prevent the extremists from taking control of the country.

Senator EASTLAND. That we support that government, was it not?

Mr. WIELAND. As far as we could; yes, sir.⁴⁹

WIELAND KNEW OF INVASION

Although Mr. Wieland was detailed to the Foreign Service Institute at the time of the Bay of Pigs invasion, and for months before, he discussed the coming invasion with Miro Cardona only 2 or 3 weeks before it took place.

Mr. SOURWINE. Do you know Miro Cardona?

Mr. WIELAND. Yes, sir.

Mr. SOURWINE. Were you in contact with Mr. Cardona at any time within the month before the abortive Cuban invasion effort at the Bay of Pigs?

Mr. WIELAND. I had lunch with Dr. Miro Cardona one day when he was in Washington; yes, sir.

Mr. SOURWINE. What was the time of that luncheon, can you tell us? When did it take place?

Mr. WIELAND. The date of the luncheon?

Mr. SOURWINE. Yes, as near as you can remember.

Mr. WIELAND. I must estimate here. I don't recall. It was probably in the month of March, but I don't recall.

* * * * *

Mr. SOURWINE. Probably within 2 or 3 weeks of the invasion?

Mr. WIELAND. Yes, I think so.

Mr. SOURWINE. Can you tell us what the purpose of this luncheon and what was discussed with Mr. Cardona at that time?

Mr. WIELAND. I have known Dr. Cardona in the past and he called me while I was studying German at the Foreign Service Institute and asked me if I could have lunch with him.

I accepted and we had lunch together. There was no purpose other than, as he said, a friendly get-together, since I had not seen him for a time.

Mr. SOURWINE. Was there any discussion of the coming invasion?

Mr. WIELAND. He told me that an invasion was coming up. I told him I had no connection with any part of the State Department's operation in Latin American affairs and I could give no advice or assistance on this type of operation, nothing I could say would have anything to do with what was the thinking in the Department or among some people.

Mr. SOURWINE. Did Mr. Cardona express an opinion with regard to the invasion one way or the other?

Mr. WIELAND. He expressed optimism, that is all, that he hoped it would succeed.⁵⁰

WIELAND AND THE 15 TRAINING PLANES

Mr. Wieland's part in stopping shipment of 15 training planes to Cuba in 1958 was discussed at some length during his testimony on February 8, 1961.

⁴⁹ State Department Security Hearings, pt. 5, pp. 666, 667.

⁵⁰ Ibid., pt. 5, pp. 613, 614.

Mr. SOURWINE. Mr. Wieland, did you have anything to do with the State Department order not to ship 15 training planes from Fort Lauderdale, Fla., to Cuba in 1958?

Mr. WIELAND. I was consulted on that, among others; yes, sir.

Mr. SOURWINE. By your superiors?

Mr. WIELAND. Yes, sir; by my superiors.

Mr. SOURWINE. You didn't initiate any recommendation in that regard?

Mr. WIELAND. I honestly can't say, sir. I don't know, I don't recall. I may have.

Mr. SOURWINE. You think you may have initiated a recommendation?

Mr. WIELAND. I may have. I just don't know.

Mr. SOURWINE. Your recommendation, if you initiated one, would have been against this shipment?

Mr. WIELAND. Yes, sir.

Mr. SOURWINE. You were opposed to the shipment of those planes?

Mr. WIELAND. Yes, sir; because——

Mr. SOURWINE. Why?

Mr. WIELAND. Because we had information at that time that the Cubans were arming light craft, and using them in Cuba's internal strife.

Mr. SOURWINE. Using them against Castro?

Mr. WIELAND. Using them against the rebel forces, yes, sir; and this was——

Mr. SOURWINE. There weren't any rebel forces in Cuba but Castro's at that time, were there?

Mr. WIELAND. There was——there was a second front in the Escambray which later became dominated by the Castro forces, but at one time was a separate force.

Mr. SOURWINE. You are saying in 1958 the forces in Escambray were not Castro forces?

Mr. WIELAND. That is right, sir. During 1958 there was still a force in there which was not part of Castro.

Senator DODD. But the real fighting force was Castro?

Mr. WIELAND. The real rebel fighting force was Castro.

Mr. SOURWINE. Are you familiar with former Ambassador Smith's testimony regarding these 15 training planes?

Mr. WIELAND. Yes, sir; I have read it.

Mr. SOURWINE. Do you have any desire to take issue with that testimony in any regard?

Mr. WIELAND. No, sir; excepting that the assumption was pretty clear in the light of their arming other planes that they would be used in combat in Cuba's internal strife.⁵¹

MATTHEWS' ARTICLES AIDED CASTRO

Ambassador Smith testified in August 1960:

I believe there was a close connection * * * between the Latin American desk and Herbert Matthews * * * I would say * * * that Mr. Wieland and all those who had anything to do with Cuba had a close connection with Herbert Matthews * * * I will say that when I was Ambassador, that I was thoroughly aware of this, and sometimes made the remark in my own Embassy that Mr. Matthews was more familiar with the State Department's thinking regarding Cuba than I was.

Three front-page articles in the New York Times in early 1957, written by the editorialist Herbert Matthews, served to inflate Castro to world stature and world recognition. Until that time, Castro had been just another bandit in the Oriente Mountains of Cuba, with a handful of followers who had terrorized the campesinos, that is the peasants, throughout the countryside.

Fidel Castro landed on the south coast of Oriente in December of 1956, from Mexico, with an expeditionary force of 81 men. * * *

After the Matthews articles, which followed an exclusive interview by the Times editorial writer in Castro's mountain hideout and which likened him to Abraham Lincoln, he was able to get followers and funds in Cuba and in the United States. From that time on, arms, money, and soldiers of fortune abounded. Much of the American press began to picture Castro as a political Robin Hood.⁵²

⁵¹ State Department Security Hearings, pt. 5, p. 596.

⁵² "Communist Threat to the United States Through the Caribbean," pt. 9, p. 686.

Concerning his association and contacts with Mr. Herbert Matthews of the New York Times, Mr. Wieland testified, on the occasion of his second appearance before the committee, as follows:

Mr. WIELAND * * *. Mr Matthews is, as Ambassador Smith said, the leading Latin American editorial writer for the New York Times. He is an important newspaperman.

He would telephone me from New York when there were important developments in the Caribbean area and he came to my office a total of perhaps two or three times when he was in Washington. These conversations with him were conducted with the knowledge and approval of the public affairs adviser or the Assistant Secretary. Nevertheless, my connections with him were certainly no closer than they were with the newspapermen who work in Washington and deal with developments affecting the countries with which he was concerned in the Department. In every conversation that I can remember having with Mr. Matthews, he was critical of our attitude toward Cuban matters. I know of no basis for the remark by Ambassador Smith that Mr. Matthews was more familiar with the Department's thinking regarding Cuba than our Ambassador was.⁵³

Mr. Wieland told the committee on January 9, 1961, that it was part of his function to "leak" news about State Department activity. Here is the testimony:

Mr. SOURWINE. Was it part of your function at any time to leak news about the State Department activity with respect to foreign policy in this country?

Mr. WIELAND. I could have it approved off the record and talked with newspapermen for the Department, yes, sir.

Mr. SOURWINE. You have given interviews with newspapermen on the basis of no quotation or no attribution?

Mr. WIELAND. Yes, sir.

Mr. SOURWINE. And have you also acted as unnamed spokesman for the State Department?

Mr. WIELAND. To the best of my knowledge, no, sir.

Mr. SOURWINE. I mean, one of those interviews where a man is going to say, "A Department spokesman said" so and so.

Mr. WIELAND. No, to the best of my knowledge, no, I always took precautions to guard against that, sir.

Mr. SOURWINE. And when you were giving these off-the-record interviews, they never went beyond referring to U.S. diplomatic circles and crediting it to somebody?

Mr. WIELAND. It dealt with the situation, it dealt with our relations with various countries under my area, and the situation that might exist in those countries.

Mr. SOURWINE. We understand sometimes it is desirable to have a piece of news appear without having it attributed, the Department will take that position, so that sometimes in line of duty you would give out information which was to be credited to some unknown person, and they would say, "It was learned in diplomatic circles," or "a knowledgeable person said," or something of that sort?

Mr. WIELAND. That would occasionally happen, yes, sir.

Mr. SOURWINE. When you did this, did you usually call in a number of correspondents, or did you give it to small groups, or did you give it out individually to a single correspondent, or perhaps to several, but one at a time?

Mr. WIELAND. Usually one at a time, Mr. Sourwine, and always after checking with the public affairs adviser of the Bureau, or with my superiors, or both.

Mr. SOURWINE. What were some of those correspondents to whom you gave news in that way?

Mr. WIELAND. Well, it would be Jerry Hannifin of Time, Stan Bradshaw and Ben Meyer of the Associated Press; occasionally to Mr. Raymont of United Press, Mr. Hinshaw of United Press; I had occasional talks with Mr. John O'Rourke of the Washington News, and Mr. Johanssen of the Christian Science Monitor. I can recall those at the moment.

Mr. SOURWINE. Did you ever give news in that way, or leak it otherwise to Mr. Herbert Matthews?

Mr. WIELAND. I have had some interviews with Mr. Matthews, yes, sir.

Mr. SOURWINE. How about Mr. James Reston?

⁵³ State Department Security Hearings, pt. 5, p. 532.

Mr. WIELAND. Mostly on the telephone, however.

Mr. SOURWINE. How about Mr. James Reston?

Mr. WIELAND. No, sir.

Mr. SOURWINE. Did you ever give news in that way to anyone on any of the other New York papers?

Mr. WIELAND. Mr. Kenworthy of the New York Times. That is all I can recall offhand, sir.

Mr. SOURWINE. You don't recall anyone on any of the other New York papers?

Mr. WIELAND. I don't recall them now, sir.

Mr. SOURWINE. Just the two Times men?

Mr. WIELAND. That is all I recall, sir.⁵⁴

It is interesting that Mr. Wieland recalled "leaking" news to two different New York Times men, but could not recall ever leaking anything to a representative of any other New York City newspaper.

In contradistinction to his testimony respecting the "leaking" of news to Herbert Matthews, of the New York Times, Mr. Wieland gave this testimony on February 8, 1961:

Mr. WIELAND. I disagreed with Mr. Matthews' reporting on Castro, but I cannot recall the phrase.

Mr. SOURWINE. You never told him that you disagreed?

Mr. WIELAND. Yes, sir; I told him that I did not share his views on Castro.

Mr. SOURWINE. You did do that?

Mr. WIELAND. Yes, sir.

Mr. SOURWINE. You knew Mr. Matthews fairly well; did you not?

Mr. WIELAND. Only through the meetings we had, sir, when he would come down and talk or on the telephone.

Mr. SOURWINE. Do you remember when and where you first met him?

Mr. WIELAND. I believe my first meeting with Mr. Matthews—I can't remember the date—when he came to the Department to speak to Mr. Rubottom, and Mr. Rubottom called me in.

Mr. SOURWINE. In other words, you didn't meet him until after you were here in an official capacity?

Mr. WIELAND. That is right, sir.

Mr. SOURWINE. Yes, sir. And your dealings with him were not on a social basis but wholly in line of duty?

Mr. WIELAND. Yes, sir.

Mr. SOURWINE. Was Mr. Matthews ever given any special facilities by the State Department?

Mr. WIELAND. Not to my knowledge, sir.

Mr. SOURWINE. Was he ever given, to your knowledge, any access to special information?

Mr. WIELAND. To my knowledge; no, sir.

Mr. SOURWINE. Any preferment over other newspaper reporters?

Mr. WIELAND. Not to my knowledge.⁵⁵

WIELAND DENIES MISSTATEMENTS IN NEWS RELEASES

Testifying before the committee on February 8, 1961, Mr. Wieland said:

I did not knowingly make any misstatements in any discussions on the Cuban situation. I cannot recall slanting any news in favor of Castro because soon after I arrived in Washington in 1957 and had an opportunity to form an opinion of the man, I was convinced that Castro was not the answer to Cuba's problems.⁵⁶

This was part of a prepared statement which Mr. Wieland read to the committee, after having an opportunity to study the testimony of former Ambassadors Smith and Gardner.

A little further on in the statement, Mr. Wieland said:

I was never an admirer of Castro. The more I learned of Mr. Castro's personality, statements, and programs, the more I became convinced that he was a

⁵⁴ State Department Security Hearings, pt. 5, pp. 516, 517.

⁵⁵ Ibid., pt. 5, pp. 605, 606.

⁵⁶ Ibid., pt. 5, pp. 532.

mentally sick man completely obsessed with his own ego, and unscrupulously ambitious.

It has long been my personal belief that Castro would doublecross anyone and betray any principle to achieve his goal of emerging as a new totalitarian leader, believing himself capable of outstripping Mao Tse-tung and Khrushchev. In this regard I think his record speaks for itself. He quickly discarded every pretense of democracy. Indeed, I recall in staff meetings in the State Department and in other conversations frequently expressing my opinion that too many people in this country and the entire hemisphere had been deluded by Castro.

Senator DODD. When was this that you said this?

Mr. WIELAND. This was during 1958 especially, and during mostly 1958, part of 1957.⁵⁷

Mr. Wieland was questioned about this.

Mr. SOURWINE. To take the other side, did you ever in staff conferences or other State Department or official gatherings speak up to defend Castro, to speak well of him?

Mr. WIELAND. I cannot recall ever speaking well of Castro; no, sir.

Mr. SOURWINE. To refute anybody who was speaking ill of him?

Mr. WIELAND. No, sir; not that I recall.⁵⁸

It is perhaps significant that Mr. Wieland at this time did not know that the subcommittee had received any information about the incident in the airplane over Mexico, involving an attempt to brief Dr. Milton Eisenhower, the President's brother.

THE CUBAN BLACKLIST

Interesting sidelights were cast by Wieland's statements during a colloquy over his part in keeping Gen. Jose Pedraza and other Cubans out of the United States.

Mr. SOURWINE. Did you ever interest yourself in the State Department struggle to keep General Pedraza out of the United States?

Mr. WIELAND. There was a list of persons at one time immediately following the overthrow of Batista that was passed on to Immigration with a view to controlling their entry into the United States until such time as the political situation quieted down, yes, sir. And I believe his name was on that list.

Mr. SOURWINE. By controlling it you mean preventing it?

Mr. WIELAND. Preventing it for the time, yes, sir.

Mr. SOURWINE. Preventing their entry. And you say there was a list. Where did the list come from? Who made it up, who initiated it?

Mr. WIELAND. Mr. Chairman, this is an executive session, I think, is it not?

Chairman EASTLAND. Yes.

Mr. WIELAND. The list, I believe, was prepared by the Embassy in Havana and sent to the Department.

Mr. SOURWINE. You had nothing to do with initiating it?

Mr. WIELAND. I can't be precise, but I don't think so.

Mr. SOURWINE. You didn't ask the Embassy for a list of prominent Batistianos who might seek entry into the United States?

Mr. WIELAND. I think we did, yes, sir.

Chairman EASTLAND. Do you think we did?

Mr. WIELAND. The Department, yes, sir.

Mr. SOURWINE. You initiated that, didn't you?

Mr. WIELAND. I can't recall, sir, at the moment. If I did I would be glad to say so.

Mr. SOURWINE. Do you recall that you were instructed to do this?

Mr. WIELAND. I recall that I worked on that list, I received that list, but I don't know whether I initiated it or someone else did.

Senator DODD. I don't understand this "we" business. Some human beings do those things?

Mr. WIELAND. Yes.

Senator DODD. It may be that you have trouble remembering, but this isn't ancient history actually, is it? It is fairly recent.

Mr. WIELAND. Yes, sir.

⁵⁷ State Department Security Hearings, pt. 5, pp. 532, 533.

⁵⁸ Ibid., p. 533.

Senator DODD. This was a much talked about matter.

Mr. WIELAND. That was in 1959, yes, sir.

Senator DODD. Can't you help us a little more than saying "we," you are not sure, and so on? What did you do with respect to the list? Who gave you the list, who did you give it back to? Those seem to me to be simple matters.

Mr. WIELAND. The list comes in from the Embassy and is received by the Department. It passed through various hands. I am not trying to dodge the issue here at all.

Senator DODD. I am not suggesting that you are, I am suggesting that it is very difficult when the witness says "we" or "the Department."

Mr. WIELAND. I realize that, sir. I wish I could be more specific. And the next time I come I will have the list looked up.

Mr. SOURWINE. When the list came from Havana it came to your office first from the mail room?

Mr. WIELAND. It would not, no.

Mr. SOURWINE. It would not?

Mr. WIELAND. No. I would get a copy, it would be distributed to various desks, and I would get a copy.

Mr. SOURWINE. Even though you had asked for it you would just get a copy?

Mr. WIELAND. Yes, sir.

Mr. SOURWINE. Was that because the request was made in the name of the Secretary?

Mr. WIELAND. I don't remember, sir, who signed the request.

Mr. SOURWINE. This might have come in for Mr. Wieland?

Mr. WIELAND. No, sir.

Mr. SOURWINE. I could not have come in that way?

Mr. WIELAND. No, sir.

Mr. SOURWINE. Could it have come in marked for your desk or for your office?

Mr. WIELAND. No, sir.

Mr. SOURWINE. How would it come in, addressed to whom, just to the Department?

Mr. WIELAND. It would probably come in addressed to the Secretary of State; yes, sir.

Mr. SOURWINE. There was no indication as to who was interested?

Mr. WIELAND. There is a message center that directs all correspondence to the interested areas.

Mr. SOURWINE. How would they know who was interested? The message itself wouldn't indicate?

Mr. WIELAND. The area would be the Bureau of Security and Consular Affairs in the ordinary——

Mr. SOURWINE. That would be indicated on the message when it came into the embassy?

Mr. WIELAND. No, that would be put in the message center when it got to the Department.

Mr. SOURWINE. Even though you had asked for it, it wouldn't be indicated that it was in reply to your request? It was for the message center to find out?

Mr. WIELAND. Yes, sir.

Mr. SOURWINE. Can you tell me whether General Pedraza's name was on this list when it came from the Embassy?

Mr. WIELAND. I think it was, yes, sir.

Mr. SOURWINE. Did you know Pedraza in Cuba?

Mr. WIELAND. I met him once, so far as I can remember, and that was all. I had no contact or association with him.

Mr. SOURWINE. Do you remember the occasion of the single meeting you had with him?

Mr. WIELAND. It was about the time that Batista took over in Cuba, sir; I met him at some gathering with the military, but I don't remember which one. And I had no further association with him.

Mr. SOURWINE. Was he chief of the police at that time?

Mr. WIELAND. He became chief of police. I don't think he was then.

Mr. SOURWINE. You didn't know him when he was chief of police?

Mr. WIELAND. No, sir.

Mr. SOURWINE. Did you have a quarrel with him or misunderstanding with him; that is, with General Pedraza?

Mr. WIELAND. Not that I know of, sir.

Senator DIRKSEN. There will have to be one or two clarifying questions.

The list to which you refer either had to be generated on the volition of somebody in the Cuban Embassy, or there had to be a request for this. And if there

was a request for the list, there had to be some particulars as to how long the list should be and who should be on it. There ought to be a little more information with respect to that list, because it just wouldn't come out of thin air.

Mr. WIELAND. No, sir.

Senator DODD. I agree with Senator Dirksen, I think this list appears in a most unsatisfactory manner in the record.

Senator DIRKSEN. Let's just go back. Insofar as your knowledge goes, did a list on the volition of somebody in our Cuban Embassy come to the State Department?

Mr. WIELAND. Sir, my recollection is that it was requested from the Department—

Senator DIRKSEN. I would ask you their names. The answer here is either yes or no.

Mr. WIELAND. I believe it was requested by the Department.

Senator DIRKSEN. I will ask you their names. Insofar as your knowledge extends, was there a request by somebody in the State Department in Washington for a list to be provided by the U.S. Embassy in Cuba containing certain names?

Mr. WIELAND. Yes, sir, I think so.

Senator DIRKSEN. Would the request have included the specific names?

Mr. WIELAND. No, sir.

Senator DIRKSEN. How would those names find their way to the list if they were not suggested by somebody?

Mr. WIELAND. They would be the names, sir, of persons prominent in the former government of Cuba, the immediate entry of whom to the United States would have caused political difficulties to this Government.

Senator DIRKSEN. But all the names in the universe wouldn't mean anything unless some human brain—

Mr. WIELAND. Put them on a piece of paper.

Senator DIRKSEN. Moved either a finger or a typewriter or a pen or pencil.

Mr. WIELAND. Yes, sir.

Senator DIRKSEN. And put down those names on a piece of paper.

Mr. WIELAND. Yes, sir.

Senator DIRKSEN. Who would have suggested those names, sir?

Mr. WIELAND. The Embassy in Havana.

Senator DIRKSEN. The Embassy is a nice, big white building down there. I have been in it. It is very beautiful. And it is filled with people. But there isn't a stone in that Embassy or a chandelier that could have put a mark on paper. Some human being, some brain had to do it. Would you have any thought as to who in that nice, big white building sitting right out there on that wide boulevard would have said, "Now, here are some names"?

Mr. WIELAND. I have no personal knowledge as to who prepared that list, sir. But my observation there would be that the Embassy would gather in the persons dealing, each in their individual fields, with problems in Cuba at the Embassy, and each would make their suggestions to such a list. And that list would be gone over and compiled.

Senator DIRKSEN. But even that wouldn't go very far, because if lists of names went into an ingoing and outgoing basket everywhere gathering dust until some one person or two persons or five persons said, "All right, let's break these out, let's see, let's make a list."

Would you have any knowledge as to who might have said "This is an OK list"?

Mr. WIELAND. No, sir.

Senator DIRKSEN. You wouldn't?

Mr. WIELAND. No, sir, as it is signed by the Chief of Mission and sent to the Department, I wouldn't know who individually did each.

Senator DIRKSEN. All you know is, there was such a list?

Mr. WIELAND. Yes, sir.

Senator DIRKSEN. Could you say from knowledge how many names might have been on that list?

Mr. WIELAND. I would say—no, sir; I can't.

Senator DIRKSEN. Could you guess whether it was 2 or 5, or 20 or a hundred?

Mr. WIELAND. It was an extensive list, sir, and I couldn't count it.

Senator DIRKSEN. It was an extensive list?

Mr. WIELAND. Yes.

Senator DIRKSEN. Extensive would mean what—a dozen, 20, or 50?

Mr. WIELAND. May I guess, Mr. Chairman?

Senator DIRKSEN. Yes; we will accept a guess.

Mr. WIELAND. Thank you. I would guess between 70 and 100.

Senator DIRKSEN. I can say this. If we typed them single space on this page, this would hold at least 60 names. Would there have been as many as the names on a single piece of paper?

Mr. WIELAND. I would guess, sir, as a guess between 75 and a hundred names.

Senator DIRKSEN. Fine. Now, we know there was a list, we have some general idea of how many names there were on the list. We know that the list came to the State Department in Washington, and when it came here it landed where first in the course of mails and files procedure?

Mr. WIELAND. It would arrive in the message center, sir, and a copy or copies would go to the Bureau of American Republics files, a copy would come certainly to the Caribbean and Mexican Affairs, a copy would go to the Security and Consular Affairs.

Senator DIRKSEN. So out of mails and files it was parceled out in pencil, and that is how the copy got to you?

Mr. WIELAND. Yes.

Mr. SOURWINE. Did this list indicate on its face that it was a list of persons, each of whom, in the judgment of someone in Havana, would cause trouble for the United States if he or she was allowed into the United States at that time?

Mr. WIELAND. Yes, sir.⁵⁹

The above lengthy colloquy is also a good example of the type of difficulties commonly encountered by the subcommittee in attempting to establish responsibility for actions within the State Department. Here was a "blacklist"—a list of "proscribed persons"—a sort of administrative bill of attainder—and the best efforts of the committee could not wring from the witness information as to who asked for it or who supplied it, or whose judgment (or judgments) went into the composing of it.

The Handling of the Wieland Case

Deputy Under Secretary Roger Jones' first description of the clearance of William Wieland was as follows:

Mr. JONES * * *. In those very, very few cases—I can think of only three—in which the Office of Security has chosen not to make a final recommendation of its own on all aspects of the case; it has, therefore, not accompanied the file with the kind of paper that you sign off on, and, at least in one of those cases, the approval was given on the basis of two actions:

(1) An oral statement by me accompanied by a memorandum which I sign approving the assignment of the individual overseas.

The CHAIRMAN. Who is that?

Mr. JONES. This is Mr. William A. Wieland.

(2) And the understanding that the case would be closed out in the normal way by the report to the Civil Service Commission, which is required, of the reaffirmation of the loyalty and security investigation.

Mr. SOURWINE. What were the other two cases, if you do not mind telling us?

Mr. JONES. I have got to reach into my memory.

One is the case of an allegation or an uncertainty on the part of the Office of Security on judgment factors of an officer by the name of Topping, which involves another issue. It involves the issue of the inclusion of his name on a promotion list in which the Office of Security has been notified that we find no reason to delete his name from the list on questions of judgment.

They, I may say, raised no question about his loyalty or security. They raised a question about judgment.

And an instruction has gone back in writing from me to Mr. Boswell requesting Mr. Boswell to search the record further and to come up with any evidence they can, if there is a question of judgment.

Mr. SOURWINE. And the third case?

Mr. JONES. The third case—I will have to check, Mr. Sourwine. I am very sure that there was a case in which I was instructed to do something or other. I did it, but I do not remember who was involved or when it was done.⁶⁰

⁵⁹ State Department Security Hearings, pt. 5, pp. 518-522.

⁶⁰ Ibid., pt. 1, p. 22.

Hipsley on passing the buck

The following testimony of Mr. Hipsley, one of the most experienced security officers in the Department of State, deserves consideration in connection with Mr. Jones' description of the handling of the Wieland case:

Mr. SOURWINE * * * does the top level ever pass the buck to someone farther down the scale to make a memo for record with respect to final disposition of a security case?

Mr. HIPSLEY. I cannot speak for the present, sir. I can speak for the time I was in the position. I was under instructions from all three of my supervisors never to take back an adverse security case which we had sent forward without a signature from the officer to whom it had been addressed.

Mr. SOURWINE. If you had sent it upstairs it could not come back downstairs without the signout of the place it went to upstairs.

Mr. HIPSLEY. We could not take it back without that.

Senator DIRKSEN. Is that an inviolable rule?

Mr. HIPSLEY. It was when I was there, sir.

Mr. SOURWINE. You don't know what the rule is now? As far as you know, it is the same as it was then?

Mr. HIPSLEY. I would assume so; yes, sir.⁶¹

Jones testifies re Bontempo memo on Wieland

The first time Deputy Under Secretary Roger Jones was asked about the date of William Wieland's security clearance, this was the colloquy:

Mr. SOURWINE. Now, you spoke of William Wieland having been——

The CHAIRMAN. Let us get down to the facts about that case.

Mr. SOURWINE. Yes, sir, I was just about to ask about that. Has he been granted a security clearance for his particular job?

Mr. JONES. The job which he now holds?

Mr. SOURWINE. Yes.

Mr. JONES. Well, his present assignment is in the Office of Management.

Mr. SOURWINE. Yes, sir.

Mr. JONES. There was no withdrawal of his prior security clearance anywhere along the line. The case was reopened.

Mr. SOURWINE. Yes, sir.

Mr. JONES. So there was no specific granting of anything with respect to his present job.

Mr. SOURWINE. All right. Now, has he, in fact, been granted a security clearance for the particular job to which it is proposed to send him; that is, Bremen?

Mr. JONES. Yes, sir.

Mr. SOURWINE. And when was this clearance granted?

Mr. JONES. This was done on the basis of a memo to me which was sent up by Mr. Bontempo.⁶² My recollection is that it was about the middle of September.

And, very shortly thereafter, on the basis of review by me and by the Secretary, and after consultation, we approved, in principle, the assignment overseas, and I so indicated on a piece of paper.

However, before this could be concluded and before he could actually move, the Congress went out of session, and it was our judgment, the Congress having gone out of session, that this was not the kind of a matter which we should proceed with, in view of the interest of this committee in Mr. Wieland last year. Consequently, we decided to hold him here until the Congress was back.

It was our feeling that to do this immediately after the Congress went out of session might look as though we were not cooperating with the interests of this committee, and, therefore, Mr. Wieland was held here pending a return of the Congress.

Mr. SOURWINE. An approval of an assignment to a foreign post is not always and automatically a resolution of any pending security case, is it?

Mr. JONES. No, sir. Normally, there is no question of security involved at all.

⁶¹ State Department Security Hearings, pt. 4, p. 421.

⁶² EDITOR'S NOTE.—The fact is that Mr. Bontempo never either originated or transmitted a memorandum recommending clearance of Wieland.

Mr. SOURWINE. Normally, when you approve a man for assignment, if there is a pending security case, it is a sort of conditional approval. That is, it takes effect when the security case is settled; is that not right?

Mr. JONES. As a general rule; yes, sir.⁶³

Mr. SOURWINE. But you say in the Wieland case this was different?

Mr. JONES. This was different, yes.

Mr. SOURWINE. Was there something in the paper you signed which indicated that it was different?

Mr. JONES. I don't think so. I think it was just an approval for assignment overseas. I don't have the paper with me.

Mr. SOURWINE. How was his clearance for the Bremen job, his security clearance, evidenced at the time it was granted, which you say was September of 1961?

Mr. JONES. How was it evidenced?

Mr. SOURWINE. Yes, sir.

Mr. JONES. It was evidenced by a note which was put in his file that my approval of his assignment overseas concluded the security investigation so far as the Secretary and my office were concerned.

Mr. SOURWINE. And that is the evidence in the Department's files of the clearance at this time?

Mr. JONES. Since that time there has further been prepared—I have not seen it, but I think it has been prepared, Bill—the notification to the Civil Service Commission of the conclusion of the investigation.

Mr. BOSWELL. Yes, sir. I instructed——

Mr. SOURWINE. That was done more recently?

Mr. JONES. Yes, sir.

Mr. SOURWINE. Who sent that notice to the Civil Service Commission?

Mr. JONES. I cannot tell you because I have not seen it.

Mr. SOURWINE. So you did not do it?

Mr. JONES. I did not do it.

Mr. SOURWINE. Did you send that note?

Mr. BOSWELL. It would be my office that sent it, sir.

Mr. SOURWINE. You do not know who sent it?

Mr. BOSWELL. Specifically the individual, no. I know who I instructed to be sure that it was sent.

Mr. SOURWINE. Whom did you instruct?

Mr. BOSWELL. Mr. Otepka.

Mr. SOURWINE. O-t-e-p——?

Mr. BOSWELL. K-a.

He is currently the Chief of our Division of Evaluation.

Mr. SOURWINE. When was this piece of paper, the earlier piece of paper that you spoke of, stating that your approval of him for Bremen was a clearance, when was that sent to the files?

Mr. JONES. I do not think I have the exact date of that. It was after Mr. Bontempo forwarded the file to me, which I believe was the 14th of September.⁶⁴

I cannot tell you the exact date, but I am pretty sure that there is a date in the file. I would be glad to supply it.

Mr. SOURWINE. It would have to be after September, because you did not have the case before you up until that time, did you?

Mr. JONES. Not in a definitive way. The Wieland case has been before me in one way or another ever since I went to the Department.

Mr. SOURWINE. Yes. Now, was it after October that you did this?

Mr. JONES. I cannot give you a definitive answer on that, Mr. Sourwine.

Mr. SOURWINE. Was it after November?

Mr. JONES. You mean that this piece of paper went down?

Mr. SOURWINE. Yes.

Mr. JONES. No.

Mr. SOURWINE. It was before November?

Mr. JONES. The approval of Mr. Wieland for oversea assignment was signed by me, I think, in September, but I am not sure. When it reached the files downstairs, I don't know.

Mr. SOURWINE. But you told us that this piece of paper that you signed, approving him for Bremen, did not have anything on it to indicate that it was different from any other approval of an assignment.

⁶³ State Department Security Hearings, pt. 1, pp. 24, 25.

⁶⁴ EDITOR'S NOTE.—The fact is that Mr. Bontempo never had the William Wieland security file. Neither did Mr. Jones, at any time prior to the date when, according to his testimony, Wieland was granted security clearance.

Therefore, it did not have anything on it to indicate that it was a determination of his pending security case; that there was a separate memorandum, I think you said, subsequently sent to the file which stated that your——

Mr. JONES. No; I beg your pardon, sir, if I gave that impression.

Mr. SOURWINE. Well, I misunderstood you, then. The record will speak for itself.

Mr. JONES. I think that the chit that went to the file in this instance with the approval for oversea assignment was sent simultaneously with my approval of the assignment overseas.

Mr. SOURWINE. You say a "chit"?

Mr. JONES. Yes.

Mr. SOURWINE. What does that mean—"c-h-i-t"?

Mr. JONES. A small pad of about this size which has "Deputy Under Secretary for Administration."

Mr. SOURWINE. About 3 by 5, or a little smaller?

Mr. JONES. A little different. It is about the size of your pink one there, more that size than 3 by 5.

Mr. SOURWINE. And is that a form that the Department uses?

Mr. JONES. No; it is not a form. It is a note——

Mr. SOURWINE. In other words, this was a little handwritten note?

Mr. JONES. This was a handwritten note, that is right.

Mr. SOURWINE. Which you wrote?

Mr. JONES. No, sir. It was written by Hugh Appling of my staff.

Mr. SOURWINE. Of your staff?

Mr. JONES. Yes, sir.

Mr. SOURWINE. And it stated what?

Mr. JONES. I can't give you the exact words, Mr. Sourwine, but my recollection is that Mr. Appling's note indicated that my approval of the assignment of Mr. Wieland overseas terminated the security investigation and effected his clearance.

Mr. SOURWINE. You had instructed him at that time to put such a note in the file?

Mr. JONES. I did, sir, yes.

Mr. SOURWINE. There was not, then, any written memorandum—I mean typed up memorandum—expressing the conception that the action you took in September in approving Mr. Wieland's assignment to Bremen, in fact, constituted, and was intended at that time to constitute, a determination of all the factors in his security clearance?

Mr. JONES. No, sir. Because, under the normal rules, the final termination paper would have been, and was, the report back to the Civil Service Commission of the termination of the reinvestigation.

Mr. SOURWINE. There never was any memorandum written, then, other than the chit and the final notice, to the Civil Service Commission?

Mr. JONES. Not by my office.

Mr. SOURWINE. Or with your knowledge?

Mr. JONES. Or with my knowledge.⁶⁵

On this point, Mr. Otepka, one of the most experienced security men in the Department, testified it was standard procedure to "write a new piece of paper each time" in bringing a security file up to date:

Mr. SOURWINE. When you are bringing a security file up to date, is it standard procedure to write a new piece of paper each time?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. Suppose a Foreign Service officer in the Department were being promoted to deputy chief of a mission. Would it be sufficient for an official of the Department at the assistant secretary level or above to tell one of his subordinates "I have approved this man deputy chief of mission; you are authorized to put a notation in the files saying this has been approved, security is up to date, go ahead"?

Mr. OTEPKA. Well, I would—I am going to have to answer that this way, Mr. Sourwine:

If, as I described earlier this morning, the Deputy Under Secretary for Administration is passing on some recommendation made by the Assignment and Review Board that a person be a principal officer or deputy chief of mission, and which is a thing separate from a security consideration, whenever these things concurrently come to the attention of the Deputy Under Secretary for Administration and he merely writes a memorandum to a subordinate and says, "I have approved

⁶⁵ State Department Security Hearings, pt. 1, pp. 25, 26.

this man to go to a certain post as principal officer," and doesn't address himself specifically to the security case, I think this leaves the evaluator in a terrible dilemma as to what has been decided. Has it been decided that the man is eligible upon performance and length of service to serve at a certain post, or has his security also been adjudicated simultaneously? ⁶⁶

After the above testimony by Mr. Jones, the questioning turned to Mr. Boswell, head of the Office of Security.

Mr. SOURWINE. Mr. Boswell, did you ever write such a memorandum?

Mr. BOSWELL. Yes, sir, I wrote a memorandum.

Mr. SOURWINE. When?

Mr. BOSWELL. I could not specify the exact date.

Mr. SOURWINE. What did it say?

The CHAIRMAN. Approximately when?

Mr. BOSWELL. I would say in December. I am not sure about that date. It said that the handwritten memorandum which we had received terminated this phase of the reinvestigation and we could proceed with the notification of the Civil Service Commission.

Mr. SOURWINE. How did you happen to write that memorandum in December, 3 months after the action was taken?

Mr. BOSWELL. Because I inquired to find whether notification had been sent to the Civil Service Commission, and I was told it had not been sent.

For that reason, I put out this memorandum as an instruction to proceed with the notification of the Civil Service Commission.

Mr. SOURWINE. That was in December?

Mr. BOSWELL. As I recall, sir.

Mr. SOURWINE. Was this the instruction which you are talking about which you gave Mr. Otepka, telling him to write, or see there was written, a terminating memo to the Civil Service Commission?

Mr. BOSWELL. Yes, sir.

Mr. SOURWINE. That was in December of 1961?

Mr. BOSWELL. As I recall, sir. I would like to check that.

Mr. SOURWINE. I think, if it was not in December, the committee would like to have the date corrected as to what it was.

Mr. BOSWELL. I will correct it, sir.

Mr. SOURWINE. Would it be possible for the committee to get copies of Mr. Appling's chit and of your memorandum, Mr. Boswell's memorandum?

I will ask you, Mr. Jones.

Mr. JONES. I would have to look at them, sir, and then I would have to consult the Department's legal adviser.

Mr. SOURWINE. I believe it would be desirable that we have them, the text of them, for the record, if the Department will supply them.

The CHAIRMAN. Yes.⁶⁷

Mr. Boswell's memorandum, when a copy of it was supplied to the committee, proved to have been written on January 25, 1962. (The press conference at which President Kennedy was questioned about William Wieland's security status was held on January 24, 1962.) The text of Mr. Boswell's memorandum is as follows:

UNITED STATES GOVERNMENT

MEMORANDUM

Date: January 25, 1962.

To: SY/E—Mr. Otto F. Otepka.

From: SY—William O. Boswell /s/WOB.

Subject: William A. Wieland.

With reference to my memorandum of September 18th, 1961, to you, this will confirm that Mr. Jones today confirmed that Mr. Appling's handwritten note dated September 15th constitutes his concurrence with Mr. Bontempo's memorandum of September 14th that no action against the employee is warranted or advisable in the interest of national security.

⁶⁶ State Department Security Hearings, pt. 1, pp. 87, 88.

⁶⁷ Ibid., pp. 26, 27.

Mr. Jones also confirmed that the Department had determined that no further action need be taken regarding Mr. Wieland under the applicable authority and standards for the Foreign Service.

Distribution:

Original and 1 addressee.

CC subject file.

CC chron file.

SCA:SY: WOBoswell:mc.⁶⁸

The text of Mr. Appling's "chit" was as follows:

DEPARTMENT OF STATE

OFFICE OF THE DEPUTY UNDER SECRETARY FOR ADMINISTRATION

[Copy of handwritten note]

15 Sept.

SCA—Mr. Perry.

Re Mr. Bontempo's memo of Sept. 14 on W. A. Wieland.

Attached is copy of memo of Sept. 8 in which Mr. Jones, having studied digest of Wieland case, approved Wieland's assignment as Consul General, Bremen.

/s/ HGA.⁶⁹

There is nothing on the face of this note to indicate that it involved approval of security clearance for Mr. Wieland. Use of the word "digest" here is especially significant in view of Mr. Jones' testimony (see p. 174) that he had studied the Wieland security file. The fact is that Mr. Jones, at this time, had not seen any part of the Wieland security evaluation *but* the digest of the summary.

The State Department also furnished the committee with what it said was the text of a memorandum by Mr. Boswell to Mr. Otepka under date of September 18, 1961, purporting to interpret the Appling chit. The text of this memorandum was reported as follows:

UNITED STATES GOVERNMENT

MEMORANDUM

Date: September 18, 1961.

To: SY—Mr. Otto F. Otepka.

From: SY—William O. Boswell /s/WOB.

Subject: William A. Wieland.

Please note the attached penned memorandum from Mr. Appling in Mr. Jones' office to Mr. Perry of SCA.

Inasmuch as Mr. Jones has approved Mr. Wieland's assignment to Bremen we should proceed with our notification to the Civil Service Commission.

This will, of course, be reaffirmation of his E.O. 10450 security clearance.

Attachment:

Memo from Mr. Appling of O to Mr. Perry, SCA dtd 15 September 1961.

Distribution:

Orig & 1 addressee.

cc subject file.

cc chron file.

SCA:SY:WOBoswell:mc.⁷⁰

It is of some interest that Mr. Perry is not in the Office of Security but in the Office of Personnel of the Bureau of Security and Consular Affairs. Mr. Appling's "chit" was handwritten, with no copies. But Mr. Boswell, according to the testimony, had the Appling memo (or a copy of it) and made it the subject of a memorandum of his own to Mr. Otepka on September 18, 1961.

(Mr. Otepka subsequently testified: "I pointed out to Mr. Boswell then, upon the receipt of that memorandum, orally, that I had made

⁶⁸ State Department Security Hearings, pt. 1, p. 27.

⁶⁹ Ibid.

⁷⁰ Ibid., pt. 1, p. 28.

specific recommendations, with which Mr. Bontempo had concurred, and that this memorandum was not responsive to those recommendations, because I discussed the man's suitability and security, and I expected a full and complete answer on both counts.")

How the Chief of the Division of Evaluation regarded the Appling chit was revealed in his testimony:

Mr. SOURWINE. In your judgment does the Appling chit call for any action?

Mr. OTEPKA. No, sir.

Mr. SOURWINE. Does it request any action?

Mr. OTEPKA. No, sir.

Mr. SOURWINE. Was it addressed to an individual who had authority to take any action?

Mr. OTEPKA. No, sir.⁷¹

Jones uncertain re Bontempo memo of September 14

Deputy Under Secretary Jones was rather shaky in his recollection respecting the memorandum which, according to his earlier testimony, he had received under date of September 14 from Mr. Bontempo, then Administrator of the Bureau of Security and Consular Affairs.

Mr. SOURWINE. At what time was there any signoff or acceptance of responsibility of any nature by the head of the Bureau of Security and Consular Affairs in this case?

Mr. JONES. At the time that the memorandum with respect to the assignment of Mr. Wieland overseas, and, as I indicated, I believe the date of this was September 14, but I will have to check that and make sure that was the correct date.

Mr. SOURWINE. That was a memorandum from the head of the Bureau of Security and Consular Affairs, is that right?

Mr. JONES. Well, it was a memorandum on which the signature of either Mr. Bontempo or Mr. Cieplinski, I think, appears, but I am not sure which.

Mr. SOURWINE. And the purpose of that memorandum was what?

Mr. JONES. The purpose—Bill, can you throw any light on that? I blanked out on this. I think this was the formal, but I am not sure.

Mr. BOSWELL. The formalization of the submission of the summary.

Mr. SOURWINE. It was?

Mr. BOSWELL. Yes, sir.

Mr. JONES. I think it was, yes, but I will have to check it.

Mr. SOURWINE. In other words, the action you took was on the basis of this memorandum which you say had the signature of either Mr. Bontempo or Mr. Cieplinski?

Mr. JONES. The final action, yes, sir.

Mr. SOURWINE. The action you took in September?

Mr. JONES. Yes.

Mr. SOURWINE. Which constituted a determination as Mr. Appling's chit indicated?

Mr. JONES. That is right.

Mr. SOURWINE. Of all of the issues in the case?

Mr. JONES. That is right.⁷²

Mr. Jones was not even sure just when he received the Bontempo memo or whether it preceded his action of September 15 in approving assignment of Mr. Wieland to Bremen (the action later interpreted by Mr. Boswell as a settlement of the issues in Mr. Wieland's security case, and which Mr. Jones himself subsequently referred to as a settlement in favor of Mr. Wieland of all the issues raised in connection with his security case).

Mr. SOURWINE. You are sure it was not the other way around? You did not act first and then get a memo with Mr. Bontempo's signature on it?

Mr. JONES. No. You see—

The CHAIRMAN. Now, be specific there.

Mr. JONES. I will be very specific, according to the best of my recollection, Mr. Chairman.

⁷¹ State Department Security Hearings, pt. 1, p. 105.

⁷² Ibid., pp. 37, 38.

The Wieland case is one which has been in and out of my office and the Secretary's office at very regular intervals since his appearance before this committee last year. I do not have a log and would not normally keep a log of every time that something with respect to the Wieland security case had come to my office.

The question of counsel now throws a doubt on my own memory. I thought my memory was correct. All I can say is I will check it and find out.

Mr. SOURWINE. You understand, I am not making an assertion. I am just asking a question.

Mr. JONES. No, no, you are asking a question, and a very valid and appropriate question.⁷³

Subsequent testimony disclosed that the memorandum referred to as from Mr. Bontempo was, in fact, from the Evaluations Division of the Office of Security, and had merely been initialed by Mr. Bontempo.

Mr. SOURWINE. Let me ask Mr. Boswell:

You just stated that this memorandum, which had Mr. Bontempo's or Mr. Cieplinski's signature or initials on it—and can you be more specific than that? Do you know who it was signed by?

Mr. BOSWELL. I believe it was Mr. Bontempo.

Mr. SOURWINE. Signed by Mr. Bontempo?

Mr. BOSWELL. Initialed.

Mr. SOURWINE. Initialed. Where did it originate?

Mr. BOSWELL. It originated in the Evaluations Division.

Mr. SOURWINE. Did it come through you to Mr. Bontempo?

Mr. BOSWELL. Yes, sir.

Mr. SOURWINE. Did you approve it?

Mr. BOSWELL. It has my initials on it.

Mr. SOURWINE. Now, you said this memorandum was the formalization of the submission of the summary?

Mr. BOSWELL. By my office.

Mr. SOURWINE. That is right.

Mr. BOSWELL. Sending it forward.

Mr. SOURWINE. This is your memory?

Mr. BOSWELL. Yes, sir.

Mr. SOURWINE. In other words, there was no determination of the case, as far as you have knowledge, prior to the time of the transmittal of that memorandum?

Mr. BOSWELL. That is correct, sir.⁷⁴

Jones admits no written decision in Wieland case

Deputy Under Secretary Jones admitted that he had never indicated in writing any action on the findings of the Office of Security adverse to Mr. Wieland.

Mr. SOURWINE. You never did make specific findings in the terms of reference of the findings that were made by the Security Office?

Mr. JONES. In writing; no, sir.⁷⁵

Mr. Otepka found the handling of the Wieland case "unusual":

Mr. SOURWINE. * * * Am I correct that, at whatever level a security case reaches, when it leaves that level, that level must add an endorsement or a recommendation, a concurrence or a nonconcurrence?

Mr. OTEPKA. I think this would be quite proper to do so, particularly if the lower level made a specific finding and a recommendation as to what the issues really are and how they should be disposed of.

Mr. SOURWINE. Well, doesn't the individual charged, the object of this security—the subject of the security investigation—have a right to have the actions all along the line recorded in writing and signed or initialed by the man that takes the action?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. Well, isn't this always done?

Mr. OTEPKA. It has been my experience in the Department of State that it has always been done with perhaps a recent exception.

⁷³ State Department Security Hearings, pt. 1, p. 38.

⁷⁴ Ibid., p. 39.

⁷⁵ Ibid., p. 40.

Mr. SOURWINE. Did you ever know of an instance in which the top level passed the buck to someone farther down the line to make a memo for record with respect to final disposition of a security case?

Mr. ОТЕРКА. Well, I would say there was a rather unusual handling of the case of William Arthur Wieland.

Mr. SOURWINE. All right. What do you mean by that? Unusual handling?

Mr. ОТЕРКА. Well, the two evaluators in this case after a considerable laborious and painstaking task came up with specific findings and conclusions on all of the substantive information in the case which was carefully compartmented into the various security factors, which I have related here, that appear in Executive Order 10450, and there was a recommendation made with respect to the disposition of each of those factors.

This case instead of going through the channels which I described here this afternoon, and which I also described this morning, in the case of John Stewart Service, was sent directly from the evaluators to the Deputy Under Secretary for Administration. And the——

Mr. SOURWINE. You mean without any indication of concurrence or nonconcurrence on the part of the Director of the Office of Security?

Mr. ОТЕРКА. Yes, sir; without any such.

Mr. SOURWINE. Or the Administrator of the Bureau of Security and Consular Affairs.

Mr. ОТЕРКА. Yes, sir.⁷⁶

Mr. Jones testified he had studied Wieland's security file, including "both the file and the summary," and also had had a chance to look at the investigative file.

Mr. SOURWINE. At the time you approved this, had you had an opportunity to study Mr. Wieland's security file?

Mr. JONES. Yes, sir.

Mr. SOURWINE. It had been sent up to you by Mr. Bontempo?

Mr. JONES. Yes, sir, both the file and the summary.

Mr. SOURWINE. You had had a chance to look at the investigative file?

Mr. JONES. Yes, sir.

Mr. SOURWINE. You had read the summary of the investigation?

Mr. JONES. I had, sir.⁷⁷

Jones claims he saw field reports in Wieland case

Later on, this testimony appears:

Mr. SOURWINE. Did you go back to the individual field reports when you reviewed the Wieland case?

Mr. JONES. I did, sir. They were in these three big folders that I referred to.

Mr. SOURWINE. You did not review Mr. Wieland's testimony before the Internal Security Subcommittee?

Mr. JONES. No, sir; I did not.

Mr. SOURWINE. You did review the report of the Chief of the Evaluation Division?

Mr. JONES. I did, sir.⁷⁸

Jones describes Wieland file

Here is Mr. Jones' description of the Wieland security file:

Mr. SOURWINE. Now, you told us you personally reviewed the file in the security case of Wieland?

Mr. JONES. That is correct.

Mr. SOURWINE. How thick was that file? How big was that file?

Mr. JONES. Well, let me take it and break it in two parts, Mr. Sourwine.

The summary and evaluation was contained in one folder. I do not know how many pages. I would say probably 150 or 160 pages.

Mr. SOURWINE. The summary and evaluation?

Mr. JONES. The summary and evaluation, yes.

Back of that, my recollection is that there are three thick folders which I have seen, and, in addition to that, his personnel folder, so that would be a total of four folders.

⁷⁶ State Department Security Hearings, pt. 1, pp. 86, 87.

⁷⁷ Ibid., p. 29.

⁷⁸ Ibid., p. 48.

Mr. SOURWINE. This summary and evaluation is what is sometimes referred to as the digest?

Mr. JONES. Yes.

Mr. SOURWINE. And you say that is about how many pages?

Mr. JONES. Oh, my guess is approximately 150 pages, roughly.⁷⁹

But Mr. Otepka testified that up to September 15 Mr. Jones had in his possession "only the digest and nothing else":

Mr. SOURWINE. Mr. Otepka, in September, on September 15, or prior thereto, at any time prior thereto, had Mr. Jones had an opportunity to study Mr. Wieland's security file?

Mr. OTEPKA. I would say, based on my personal knowledge of what material was hand carried by me to Mr. Jones' office, that Mr. Jones, prior to that time, had in his possession only the digest and nothing else.

Mr. SOURWINE. And you took that digest up in what month?

Mr. OTEPKA. In August 1961.

Mr. SOURWINE. And you took it directly to the Deputy Under Secretary because you were instructed to do so?

Mr. OTEPKA. I was instructed to do so.

Mr. SOURWINE. By Mr. Boswell?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. Subsequently the 14th of September your memorandum for Mr. Bontempo's signature was completed and signed?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. Does that memorandum make any reference to the fact that the digest had been in Mr. Jones' hands since August or that it had been submitted outside the usual channels?

Mr. OTEPKA. It made reference to the fact that the security case, namely, the digest had been submitted to Mr. Jones and also to the fact that he, Mr. Jones, had to make a finding of fact on the issues involving the case, which were clearly enunciated in that memorandum.

Mr. SOURWINE. Was this memorandum a request for findings on specific issues?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. Did you ever get such a finding from Mr. Jones?

Mr. OTEPKA. Except in the—as referred to in the memoranda which——

Mr. SOURWINE. All right. You took Mr. Jones, in August, the digest?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. 100-odd pages. Did you ever take him the summary?

Mr. OTEPKA. At the time I delivered the digest to Mr. Appling he had, by this time, received earlier portions of the digest as they had been typed and on the day that I delivered to him the final pages of the digest I said, "This is not the entire case."

I pointed out that my digest indicated that there was a summary, I orally informed Mr. Appling that there was a full summary in the case, that all the investigative reports, the supporting documentation, including transcripts of hearings before this committee, were in my possession and should be read by the reviewing authority to have a complete picture of what the issues were in this case.

Mr. Appling simply waved me aside and said, "I have enough here. This is good enough."

Mr. SOURWINE. Do you remember what my question was?

Mr. OTEPKA. Yes.

Mr. SOURWINE. What was it?

Mr. OTEPKA. Well, you, I believe you asked me whether I delivered to Mr. Appling and—what I delivered to Mr. Appling?

Mr. SOURWINE. Let us start again, First I asked or at least I intended to ask if you ever delivered a summary to Mr. Jones' office or to Mr. Jones.

Mr. OTEPKA. At that time I did not.

Mr. SOURWINE. Did you ever deliver this summary to Mr. Jones?

Mr. OTEPKA. I never delivered the summary personally to Mr. Jones. It was delivered to Mr. Jones later by someone else.

Mr. SOURWINE. When and by whom?

Mr. OTEPKA. On January 25, 1952, Mr. Appling came to my office and asked for the summary and I——

Mr. SOURWINE. Was that before or after you received this memorandum of the 25th from Mr. Boswell?

Mr. OTEPKA. Of course, this happened on the same date——

⁷⁹ State Department Security Hearings, pt. 1, p. 41.

Mr. SOURWINE. I understand. Now, what time of day was it when Mr. Appling came for the summary, the morning of the 25th?

Mr. OTEPKA. Sir, I just don't know. I would have to use something to refresh my recollection.

Mr. SOURWINE. All right, if you don't know, say so. Now prior to that time had the summary been in your possession continuously?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. How many copies of that summary were in existence? How many did you make originally?

Mr. OTEPKA. Oh, I have accountability for three copies.

Mr. SOURWINE. What do you mean, you have accountability for three copies?

Mr. OTEPKA. We prepared additional rough draft copies which after—after the summary was edited and put into final form, I destroyed all of the draft copies so that in the final result I had three full copies.

Mr. SOURWINE. All right. So there are three copies?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. Are all those copies in your possession or under your control at all times?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. How many of those copies have left your possession up to the present moment?

Mr. OTEPKA. The one which is in the possession of Mr. Jones' office.

Mr. SOURWINE. Do you know where it is—it was taken by Mr. Appling?

Mr. OTEPKA. I presume it is in Mr. Appling's office.

Mr. SOURWINE. You still have the other two?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. They never left your office?

Mr. OTEPKA. No, sir.

Mr. SOURWINE. And that one never left your office until the 25th of January?

Mr. OTEPKA. That is correct.

Mr. SOURWINE. On the 18th of September Mr. Jones could not have had it or seen it, could he?

Mr. OTEPKA. I would say no, sir.

Mr. SOURWINE. And this 800-page summary, if he got and acted on January 25, which is the day of Mr. Boswell's memorandum, it would be pretty fast?

Mr. OTEPKA. I would say that.

Mr. SOURWINE. Now, had Mr. Jones as of any date in September 1961 had an opportunity to study any of the raw file, had any of that been up to his office, had he seen the investigative reports?

Mr. OTEPKA. The investigative reports have not left my office to this date with one exception.

Mr. SOURWINE. And that is?

Mr. OTEPKA. In March 1961 at the request of the newly appointed Legal Adviser I sent all the investigative reports then in my possession to the Legal Adviser. There were some two or three subsequent——

Mr. SOURWINE. Are they still there?

Mr. OTEPKA. No, sir; they were returned.

Mr. SOURWINE. When?

Mr. OTEPKA. Well, they were returned, sir, approximately 2 months later.

Mr. SOURWINE. All right. Now, this is why you told us earlier that this was one case in which action was taken on the digest alone?

Mr. OTEPKA. Yes, sir.⁸⁰

The testimony of Mr. Boswell indicated that the first material respecting the Wieland case which was sent to Deputy Under Secretary Roger Jones was a summary of the evaluation prepared by the Division of Evaluations, and that this was sent directly upstairs from the Office of Security, bypassing the office of the Chief of the Bureau of Security and Consular Affairs.

Mr. BOSWELL. It was the summary—this is the point, I think, which is not quite clear—a summary of this case that I am talking about that went up first, and in the summary there is the recommendation of the evaluator.

Mr. SOURWINE. And that went up to him in September?

Mr. JONES. This first came up in August.

Mr. SOURWINE. In August?

⁸⁰ State Department Security Hearings, pt. 1, pp. 95-96.

Mr. JONES. Yes, sir.

Mr. SOURWINE. It then went directly to Mr. Jones, Mr. Boswell?

Mr. BOSWELL. From the Evaluations Division.

Mr. SOURWINE. Who took it up, do you know?

Mr. BOSWELL. I could not say, but I believe Mr. Otepka took it up.

Mr. SOURWINE. You did not send it up from your office?

Mr. BOSWELL. No, sir. I asked him to take it up.

Mr. SOURWINE. "Him" meaning Mr. Otepka?

Mr. BOSWELL. Mr. Otepka.

Mr. SOURWINE. To take it up to Mr. Jones directly?

Mr. BOSWELL. By that, I do want to imply I instructed him personally. I instructed him to have it taken up.

Mr. SOURWINE. Directly?

Mr. BOSWELL. Yes.

Mr. SOURWINE. Without going through the Office of the Chief of the Bureau of Security and Consular Affairs?

Mr. BOSWELL. Yes, sir.

Mr. JONES. That is correct. I had asked for it.

Mr. SOURWINE. You had asked that this be done?

Mr. JONES. Yes, sir. I had been hammering at the office for weeks to get it up to me.

Mr. SOURWINE. You had told us earlier that it was essential procedure that it come up with the signoff by Mr. Boswell, or whoever was in his position, and of the Bureau of Security and Consular Affairs before it came to you.

In this instance that is not the way it went?

Mr. JONES. That is correct. The summary did not go in that channel in the first instance; no, sir.

Mr. SOURWINE. At what time, if ever, did it come through Mr. Boswell for his signoff and his expression of some written opinion?

Mr. JONES. Mr. Boswell has never made a signoff of summary and opinion here because events overtook Mr. Boswell's procedures.

Mr. SOURWINE. Then, so far as any written indication goes, Mr. Boswell has no responsibility in this case, is that correct?

Mr. JONES. That is correct.⁸¹

Mr. Otepka testified respecting the *summary* and the *digest* in the Wieland case:

Mr. SOURWINE. When the record of a security case is voluminous, is it digested to facilitate action?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. Who prepares the digest?

Mr. OTEPKA. In my experience I have known of only two such cases where the summary was so very voluminous, in order to enable the people topside to have an ample condensation of the facts, that such a digest was prepared for that purpose, and this digest was prepared by the same evaluators who prepared the summary.

Mr. SOURWINE. What were those two cases?

Mr. OTEPKA. The case of John Stewart Service and William Arthur Wieland.

Mr. SOURWINE. The two that you worked on. You mean then you prepared both the summary and the evaluation?

Mr. OTEPKA. Summary and the digest.

Mr. SOURWINE. The summary and digest. The summary includes the evaluation, is that right?

Mr. OTEPKA. The summary is a full presentation of all the substantive information developed by the investigation.

Mr. SOURWINE. I see. And is accompanied by the evaluation.

Mr. OTEPKA. Well, then, because the summary has become so voluminous, you digest the salient information and include in the digest your analyses, conclusions, and recommendations.

Mr. SOURWINE. I see. Now, to give us an example, what degree of condensation is involved there, taking the John Stewart Service case? You prepared that summary. How big was it? What was the volume of that summary?

Mr. OTEPKA. Oh, that was about 800 pages of 8½ by 10½ standard size paper.

Mr. SOURWINE. And the digest was what volume?

Mr. OTEPKA. That was about 110 pages.

⁸¹ State Department Security Hearings, pt. 1, p. 37.

Mr. SOURWINE. Now, in the Wieland case, how big was the summary?

Mr. OTEPKA. That summary was I think exactly 844 pages.

Mr. SOURWINE. And what was the volume of the digest of the summary?

Mr. OTEPKA. 136 pages.⁸²

Mr. Otepka was unable to see how action in a security case could be fairly based on the digest alone:

Mr. SOURWINE. Now, is action in a security case ever based on the digest alone?

Mr. OTEPKA. I don't see, sir, how it could be, particularly if the digest is written with the admonition that the reader of the digest refer to the full summary to get a complete picture of all the substantive information.

Mr. SOURWINE. Decision, then, has to be based at least on the summary.

Mr. OTEPKA. Yes.

Mr. SOURWINE. Sometimes a decision is based on the summary without going back to the record of the investigation and the intelligence reports, and so forth.

Mr. OTEPKA. That is correct. That may be done.

Mr. SOURWINE. They may not go back to the raw file. They may act on the summary.

Mr. OTEPKA. That is correct.

Mr. SOURWINE. But they do not act on the digest alone.

Mr. OTEPKA. I would think that would be very unusual if that should happen.⁸³

Wieland digests and where they went

Several copies of the digest of the summary and evaluation of the Wieland security case were furnished to different officers of the Department of State, and a copy even went to the Attorney General's office, according to the testimony of Mr. Otepka, who had prepared both the summary and the digest thereof:

Mr. SOURWINE. Now, as far as you know, who besides Mr. Jones had an opportunity to see the digest of the summary on the Wieland case?

(After pause). Mr. Appling, of course?

Mr. OTEPKA. Mr. Appling. And I was specifically requested by Mr. Herman Pollack, the Assistant—Deputy Assistant Secretary for Administration—to furnish a copy of the digest to Mr. Abram Chayes, Legal Adviser——

Mr. SOURWINE. Did you do that?

Mr. OTEPKA. I did, sir.

Mr. SOURWINE. When?

Mr. OTEPKA. This was, sir, sometime after August of 1961. I could not fix the exact date.

Mr. SOURWINE. All right. Who else saw the summary, the digest of the summary?

Mr. OTEPKA. The additional copy—I was requested to furnish to Mr. Pollack for his transmittal, as he said, to Mr. Siegenthaler, who I understood was Special Assistant to the Attorney General——

Mr. SOURWINE. And was that done?

Mr. OTEPKA. I furnished the digest to Mr. Pollack.

Mr. SOURWINE. When was this, about the same time?

Mr. OTEPKA. Same time. About August 1961.⁸⁴

Mr. Otepka later testified further as follows:

Mr. SOURWINE. Was the Wieland security file or the summary or the digest ever reviewed by Mr. Boswell?

Mr. OTEPKA. Well, I presume that it was at one time or another because I had at Mr. Boswell's request furnished him with both the digest and the summary subsequent to the time that the digest was carried up to Mr. Appling.

Mr. SOURWINE. That is, subsequent to the 25th of January, Mr. Boswell had not seen the digest?

Mr. OTEPKA. I believe that Mr. Boswell saw the digest prior to January 25, but I can safely state——

Mr. SOURWINE. We asked you a little while ago for everybody who had access to the digest. You told us a copy had gone to Mr. Chayes and a copy to the Department of Justice and a copy had gone upstairs to Mr. Appling—that is all.

⁸² State Department Security Hearings, pt. 1, p. 85.

⁸³ Ibid., p. 86.

⁸⁴ Ibid., p. 98.

Mr. OTEPKA. I am sorry, I was speaking of record copies of the digest which I had in my possession. Mr. Boswell's office is right around the corner and I showed it to him on one or more occasions.

Mr. SOURWINE. All right.

Mr. OTEPKA. But I cannot testify he read it thoroughly, but I did send him the summary at his specific request.

Mr. SOURWINE. After January 25?

Mr. OTEPKA. Yes, sir.

Senator HRUSKA. But on the occasion he saw the summary he did not take it out of the office, whatever inspection he did was in your office, is that it?

Mr. OTEPKA. No, he asked for it, I carried it to his office, I hand-carried it.

Senator HRUSKA. Did you leave it there?

Mr. OTEPKA. I left it there.

Senator HRUSKA. For any amount of time?

Mr. OTEPKA. Yes, I think a couple of days he kept it.

Mr. SOURWINE. That was the digest of 100-odd pages?

Mr. OTEPKA. That was the summary.

Mr. SOURWINE. And that was subsequent to the 25th of January?

Mr. OTEPKA. That was on January—I believe he did ask for the summary on January 25 but I don't recall whether I gave it to him on that same day or the next day.

Mr. SOURWINE. I am confused. I understood you to testify there were three copies of the summary. One copy had been taken January 25 to Mr. Jones' office.

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. And the other two copies had never left your possession and were still in your possession?

Mr. OTEPKA. Well, I should have—I am sorry. Again, here, sir, in the context of things here I should have explained that Mr. Boswell, who was in proximity to my office——

Mr. SOURWINE. Yes, I understand.

Mr. OTEPKA. That I, at his request, let him have my record copy but he returned it to me.

Mr. SOURWINE. Within a day or so?

Mr. OTEPKA. Within a day or so.

Senator HRUSKA. And when was that, sir?

Mr. OTEPKA. That was on or about January 25, and I don't know the exact time of day.

Senator HRUSKA. I think that conforms to the testimony you had given earlier.⁸⁵

Regarding the distinction between a "summary" and a "digest," Mr. Hipsley was quite clear. Mr. Hipsley also made it clear that a decision in a security case should not be based on a digest alone.

Mr. SOURWINE. You have spoken of a summary and a digest. Is there always a digest or only when the summary is heavy?

Mr. HIPSLEY. Usually only when the summary is heavy.

Mr. SOURWINE. Who prepares the digest; the same person who prepares the summary?

Mr. HIPSLEY. He would certainly assist in that. Normally, when you get to the type of case that requires a condensed summary and analysis—that is, a digest—it is prepared in a case which, in its entirety, will probably be a couple of file cabinets of material.

Mr. SOURWINE. Suppose you have such a case. The summary is very thick, the digest is a hundred pages or more.

Mr. HIPSLEY. Yes, sir.

Mr. SOURWINE. Would action be based on this digest alone?

Mr. HIPSLEY. By whom, sir?

Mr. SOURWINE. By anybody. Action on the case—would the man be cleared or suspended and charges brought on the basis of the digest alone?

Mr. HIPSLEY. I would think not. I would think the reviewing officer, at whatever level, would want to have the background material to look at himself.

Mr. SOURWINE. What is the procedure? Is the digest ever sent up alone, or does all the material move whenever it is referred to a higher echelon?

Mr. HIPSLEY. When I was in a position where I handled these, it all came up at one time.

⁸⁵ State Department Security Hearings, pt. 4, pp 416-417.

Mr. SOURWINE. Is it any different now?

Mr. HIPSLEY. Not that I know of. I just don't do it now.⁸⁶

Deputy Under Secretary Jones testified he had not read the testimony of former Ambassadors Smith and Pawley, though this testimony certainly had a bearing on the Wieland case:

The CHAIRMAN. Did you read the testimony of Mr. Smith and Mr. Pawley?

Mr. JONES. I have not seen the transcript of this subcommittee, sir.

The CHAIRMAN. Then what kind of an investigation did you conduct? They are prominent Americans. The President of the United States appointed Smith as an ambassador.

Mr. JONES. My job was to review the record which was established in the investigation of Mr. Wieland, sir. I reviewed everything that was in that file. That file does not contain transcript of the testimony of Ambassador Smith. It contains references to it, as it does to testimony of Ambassador Hill. It contains other references. It contains references——

The CHAIRMAN. Did it contain Pawley's testimony?

Mr. JONES. I beg your pardon, sir?

The CHAIRMAN. The Pawley testimony?

Mr. JONES. It contained references to it. It did not contain the actual transcript; no, sir.

The CHAIRMAN. You just have not got a transcript. There has been a white-wash job done.

Senator KEATING. Did you request in connection with the investigation a transcript of the hearings from this committee?

Mr. JONES. I did not, Senator Keating; no. I requested that all of the points developed in the hearing with Mr. Wieland be included in the investigation.

Senator KEATING. Do you know whether anyone else in the Department requested that we make available to them the testimony?

Mr. JONES. My understanding is that the testimony was made available for correction immediately after the witness appeared.

The CHAIRMAN. That is Wieland's testimony?

Mr. JONES. Yes, sir.

Senator KEATING. I am talking about the other testimony taken regarding Mr. Wieland.

Mr. JONES. I do not know whether a request for that was made, Senator, or not.^{87 87a}

Wieland summary contained ISS testimony

According to Mr. Otepka, who prepared both the summary and evaluation of the Wieland case, and the digest of the summary, the summary did in fact contain transcripts of the testimony of former Ambassadors Smith, Hill, and Pawley:

Mr. SOURWINE. Now, did the Wieland summary contain a transcript of the testimony of former Ambassador Smith before the Internal Security Subcommittee?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. Did it contain the testimony of former Ambassador Hill?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. Did it contain the testimony of former Ambassador Pawley?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. Were those transcripts included in the digest or were they merely summarized for the purposes of digest?

Mr. OTEPKA. They were merely summarized or condensed in the digest.

Mr. SOURWINE. But the digest referred to the fact that the transcript was available in the summary?

Mr. OTEPKA. That is correct, the summary quoted verbatim from the statements of these witnesses.⁸⁸

⁸⁶ State Department Security Hearings. pt. 4, p. 417.

⁸⁷ EDITOR'S NOTE.—The testimony of former Ambassador Gardner was printed and released to the public on Sept. 11, 1960. The testimony of former Ambassador Pawley was printed and released to the public on Feb. 20, 1961. The testimony of former Ambassador Hill was printed and released to the public on Sept. 19, 1961.

^{87a} State Department Security Hearings, pt. 1, pp. 32-33.

⁸⁸ Ibid., p. 97.

JONES TOLD PRESS ON JANUARY 24 WIELAND HAD BEEN CLEARED

Toward the end of Mr. Jones' testimony it was developed that on January 24, 1962, about an hour after President Kennedy's press conference, Mr. Jones had made a statement to certain elements of the press indicating that Mr. Wieland had been given a security clearance.

Mr. SOURWINE. * * * Now, on that same day or about that same day, did you make a statement to the New York Times which became a basis for the New York Times story quoting you as saying that Mr. Wieland had been found not a security risk, not a suitability risk, not any kind of a risk?

Mr. JONES. That statement was made on the afternoon of the President's press conference.

Mr. SOURWINE. I see.

Mr. JONES. In the presence primarily of the television and wire service people. I think there were no members of what we call the pencil press there, because they were the other people who were on the air immediately, and there was this question of whether or not a libelous statement had been made.

Mr. SOURWINE. I see.

Mr. JONES. And we felt an obligation to them to point out that there might be some problems here, and I was asked the question about what kind of clearances these two gentlemen had, and, in order to keep the record straight, I made this statement and I authorized attribution to me of that statement.

Mr. SOURWINE. I see. That was on the 24th, then?

Mr. JONES. The day of the press conference, approximately an hour after the press conference.

This revelation led to further questioning of Mr. Boswell.

Mr. SOURWINE. You remember, Mr. Boswell, you spoke of having had a conversation with Mr. Jones as a result of which you learned that the action that he had taken in September was a full determination of the security and other factors in connection with the Wieland case?

Mr. BOSWELL. Yes, sir.

Mr. SOURWINE. And you wrote a memorandum in connection with that?

Mr. BOSWELL. There are two memorandums, sir.

Mr. SOURWINE. You wrote two memorandums?

Mr. BOSWELL. There is one that was written in September and one written in January.

Mr. SOURWINE. You wrote a memorandum in September?

Mr. BOSWELL. Yes, sir.

Mr. SOURWINE. I thought you told us you wrote one in December?

Mr. BOSWELL. I said I wasn't sure of the December. The December one was the January one.

Mr. SOURWINE. Since the morning you have refreshed yourself on it?

Mr. BOSWELL. Yes.

Mr. SOURWINE. And the one you told us this morning you thought you wrote in December was written in January?

Mr. BOSWELL. That is correct.

Mr. SOURWINE. What date in January?

Mr. BOSWELL. The 25th of January.

Mr. SOURWINE. The 25th of January?

* * * * *

Mr. BOSWELL. Yes, sir.

Mr. SOURWINE. And did that reflect a telephone conversation you had had with Mr. Jones on that day, or did you see him in person on that day, or was it the day previous?

Mr. BOSWELL. I saw him in person on that day.

Mr. SOURWINE. On the 25th?

Mr. BOSWELL. Yes, sir.

Mr. SOURWINE. You went to see him to find out about the status of the case?

Mr. BOSWELL. Yes, sir. After this press conference I wanted to be informed as to what the Department's position was vis-a-vis any inquiries.

Mr. SOURWINE. Was that because there was nothing at that time in the files to show that Mr. Wieland had, in fact, been cleared?

Mr. BOSWELL. No, sir.

There is a memorandum in the files about the middle of September—I would say the 17th or the 18th—which instructed Mr. Otepka to inform the Civil Service Commission that we had closed this case.

I inquired whether this had been done, and I found out it had not been done. I, therefore, wanted to make sure, before I reiterated my instructions, that this case was closed.

Mr. SOURWINE. You say there is a memorandum in the files dated the 17th, or thereabout, of September?

Mr. BOSWELL. Yes, sir.

Mr. SOURWINE. Directing that this be done?

Mr. BOSWELL. Yes, sir.

Mr. SOURWINE. That is your memorandum?

Mr. BOSWELL. Yes, sir.

Mr. SOURWINE. It was addressed to Mr. Otepka?

Mr. BOSWELL. Yes, sir.

Mr. SOURWINE. You know that it is in the files now?

Mr. BOSWELL. Yes, sir.

Mr. SOURWINE. When was it put in?

Mr. BOSWELL. At that time.

Mr. SOURWINE. It has been there ever since?

Mr. BOSWELL. At the time it was written. Yes, sir.

Mr. SOURWINE. Mr. Otepka received it?

Mr. BOSWELL. Yes.

Mr. SOURWINE. And it went into the files?

Mr. BOSWELL. Yes, sir.

Mr. SOURWINE. And then he did not act upon it?

Mr. BOSWELL. No, sir.

Mr. SOURWINE. You do not know why not?

Mr. BOSWELL. I do not know why not, and I did not have occasion to——

Mr. SOURWINE. He is culpable for his failure to act on your instructions, is he not?

Mr. BOSWELL. He certainly is worthy of reprimand and has been.

Mr. SOURWINE. You told him in September to do something. Then in January you find out it had not been done yet?

Mr. BOSWELL. That is correct.

Mr. SOURWINE. And you had to write another memorandum?

Mr. BOSWELL. That is correct.

Mr. SOURWINE. That does not speak very well for this gentleman. He is in charge of the Evaluation Division?

Mr. BOSWELL. He was my deputy at that time.

Mr. SOURWINE. He was your deputy at that time?

Mr. BOSWELL. At that time he was my deputy.

Mr. SOURWINE. An operating deputy?

Mr. BOSWELL. He had been placed in charge of the investigation of Mr. Wieland.

Mr. SOURWINE. And you instructed him by written memo?

Mr. BOSWELL. Yes, sir.

Mr. SOURWINE. About the 17th of September?

Mr. BOSWELL. Yes, sir.

Mr. SOURWINE. To close the case with the Civil Service Commission?

Mr. BOSWELL. That is correct, sir.

Mr. SOURWINE. And he never did it? You never checked back after then?

Mr. BOSWELL. That is where I am culpable, sir.

Mr. SOURWINE. Not until January?

Mr. BOSWELL. Not until January.⁸⁹

Mr. Otepka testified he was not reprimanded for failing to "close out" the Wieland security case on the basis of Mr. Boswell's memorandum of September 18:

Mr. SOURWINE. Did you consider the memorandum of September 18 to you from Mr. Boswell as an instruction to close out the Wieland case with a determination favorable to Wieland?

Mr. OTEPKA. Well, it certainly was in the form of an instruction to me but immediately upon its receipt I went to Mr. Boswell and I explained to him that it was my feeling that such instruction was not a proper one because I had no adjudication of the case on its merits from either himself or higher—or from Mr. Bontempo or from Mr. Jones. Therefore I did not feel like closing it out on that basis.

⁸⁹ State Department Security Hearings, pt. 1, pp. 57-58.

Mr. SOURWINE. When you told him that did he orally reiterate or give you any instructions to close it anyhow?

Mr. OTEPKA. No, sir.

Mr. SOURWINE. Were you reprimanded for not closing it out?

Mr. OTEPKA. No, sir.

Mr. SOURWINE. He knew then on the day you got this memorandum you were not going to close it out on the basis of that memo?

Mr. OTEPKA. Yes, I would assume he knew that particularly on the basis of his later memorandum of January 25.

Mr. SOURWINE. But you were not going to close and told him why?

Mr. OTEPKA. That is right.

Mr. SOURWINE. And as far as you know he accepted your reasons?

Mr. OTEPKA. He did not thereafter admonish me to close it out.

Mr. SOURWINE. And he thereafter never reprimanded you for not closing it?

Mr. OTEPKA. No, because I kept insisting upon a specific finding by the proper authority.⁹⁰

Further explanation of Mr. Otepka's attitude is to be found in his previous testimony:

Mr. SOURWINE. * * * In the evaluation of a security case which results in more than one adverse finding; that is, an adverse finding on more than one ground, must each finding be separately set forth by the evaluating officer?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. Now, where that is done, must each finding be separately considered by a superior authority?

Mr. OTEPKA. Yes, sir. You have the separation of security and suitability.

Mr. SOURWINE. The standard procedure, then, requires that there be a finding with respect to each recommendation that comes up.

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. They are not to be lumped together and weighed one against another and say, on balance, clear him, or similarly be cavalierly treated.

Mr. OTEPKA. I would say that it wouldn't be proper to lump them together where the evaluators have so specifically segregated the issues.⁹¹

FIVE OF EIGHT AMBASSADORS OPPOSED TO WIELAND

Five out of eight ambassadors and former ambassadors interviewed concerning their knowledge of Mr. Wieland were unfavorable to him. This was specifically called to the attention of Otepka's superiors.

Mr. SOURWINE. Can you tell us how many former ambassadors expressed opinions about Mr. Wieland?

Mr. OTEPKA. I believe, sir, there was a total of eight ambassadors and former ambassadors who were interviewed concerning their knowledge of Mr. Wieland.

Mr. SOURWINE. How many of these were favorable to Mr. Wieland?

Mr. OTEPKA. Favorable? I believe three.

Mr. SOURWINE. Did you ever call it to the attention of your superior authority that a particular group of ambassadors were consulted and that they divided for and against Wieland in any certain way?

Mr. OTEPKA. Yes, sir, in relating to one particular event I set out information in the record setting forth the views of a certain number of ambassadors pro and con on the situation involving a policy matter in which Mr. Wieland was allegedly a participant.

Mr. SOURWINE. Can you give us any more information about that or would that be a violation of what you consider to be your obligation?

Mr. OTEPKA. Well, I believe I could go this far, that the matter related to a question of what to do about Castro and there was some discussion pro and con as to whether or not Castro was a Communist.

Mr. SOURWINE. Are you referring to the incident in the airplane?

Mr. OTEPKA. No, I did not have specific reference to that.

Mr. SOURWINE. All right. Is what you are talking about now included in the summary?

Mr. OTEPKA. Yes, sir.⁹²

⁹⁰ State Department Security Hearings, pt. 1, p. 105.

⁹¹ Ibid., p. 87.

⁹² Ibid., p. 102.

Mr. Otepka, the State Department officer conducting Wieland's security investigation, concluded Wieland had lied to him.

Mr. SOURWINE. Now, did you reach any conclusion about whether Mr. Wieland lied to you, the investigating officer?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. What was your conclusion?

Mr. OTEPKA. Again I identified the particulars with respect to the application form and other data where I felt he was untruthful with us and I said so specifically.

Mr. SOURWINE. Did you make any conclusion with respect to whether Mr. Wieland was either deterring or otherwise improperly interfering with policy?

Mr. OTEPKA. I specifically stated in my findings that any question as to whether or not Mr. Wieland was impeding policy was not within the purview of my responsibility but I said, "Here are the facts and you judge them for yourself."

Mr. SOURWINE. And you set forth facts which might be considered to indicate instances of policy impedance?

Mr. OTEPKA. Yes, sir.⁹³

Mr. Otepka's testimony on this point was as follows:

Mr. SOURWINE. Now, did the Evaluation Division make any findings adverse to Mr. Wieland?

Mr. OTEPKA. On security grounds, no, sir.

Mr. SOURWINE. Well, on any other grounds?

Mr. OTEPKA. I felt and I specified each instance that I thought there were questions, serious questions of the man's integrity and I felt that such questions since they had—did not relate to the issue as to whether or not he was disloyal, was a Communist or subversive, the question of integrity should be reviewed and adjudicated under the Foreign Service regulations of the Department of State.

Mr. SOURWINE. And were these the questions for which specific determinations were requested in Mr. Bontempo's memorandum of September 14?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. Did the making or the raising of these questions create an obligation in the reviewing level to either specifically concur in or overrule your findings?

Mr. OTEPKA. It is my personal opinion that they created that obligation.

Mr. SOURWINE. Did your report in the Wieland case raise questions on Mr. Wieland's judgment and integrity?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. I will tell you, Mr. Jones has told us this was the case. How were these questions raised?

Mr. OTEPKA. In the digest that we had presented, the condensation of the substantive information, we prepared an analysis bringing out various matters where there were disparities between the testimony of Mr. Wieland and the testimony of others we thought were credible informants and we raised the question specifically as to which of those were to be believed.

Mr. SOURWINE. Are you telling us in your judgment Mr. Wieland lied?

Mr. OTEPKA. I think Mr. Wieland lied; yes, sir.

Mr. SOURWINE. And you said so in plain language in the report you sent up there?

Mr. OTEPKA. I did not use the term "lie" but certainly the inference was plain. There were such words as "misrepresentations" and "false statements."

Mr. SOURWINE. Your judgment was that Mr. Wieland lied to this committee?

Mr. OTEPKA. I identified those instances where I thought he did not tell this committee the truth.⁹⁴

Evaluator thought Wieland lied

Deputy Under Secretary Jones admitted that he understood the Evaluation Division believed Mr. Wieland had made untrue statements.

Mr. SOURWINE. Is it your judgment, sir, or your opinion, that Mr. Wieland lied to this committee?

Mr. JONES. Not having seen Mr. Wieland's transcript, I would not have a sound basis for making that judgment.

⁹³ State Department Security Hearings, pt. 1, p. 97.

⁹⁴ Ibid., pp. 96-97.

Mr. SOURWINE. Is it your opinion that the Evaluation Division indicated its belief that Mr. Wieland had lied to the Department and to the committee?

Mr. JONES. Not in those terms, sir, no.

Mr. SOURWINE. You did not get that sense out of their report?

Mr. JONES. I got this sense from their report:

That they believed that on some issues Mr. Wieland's recollections were very clear; on other issues, that they were not; and that they could not understand why this should be the case.

Mr. SOURWINE. Did you not get the impression that the Evaluation Division felt that Mr. Wieland had made statements which were not true?

Mr. JONES. In the actual language used, no, sir. In the tone of the report, yes, sir.

Mr. SOURWINE. You understood that they did not believe some of the things he had said, and that they were conveying that fact upward, is that not true?

Mr. JONES. Conveying their feeling, yes.

Mr. SOURWINE. Their feeling?

Mr. JONES. Their feeling.

Mr. SOURWINE. That what he had said was not true?

Mr. JONES. Yes.

Mr. SOURWINE. They did not believe him?

Mr. JONES. But they did not ever categorically so state, to the best of my recollection.*

Further details of the Wieland case were outlined by Mr. Otepka under questioning:

Mr. SOURWINE. * * * do you know of any evidence Mr. Wieland requested a security investigation of himself?

Mr. OTEPKA. No, sir.

Mr. SOURWINE. Do you personally know of any such request?

Mr. OTEPKA. I do not know.

Mr. SOURWINE. Are you aware that there have been newspaper stories to the effect that Mr. Wieland did make such a request?

Mr. OTEPKA. Yes, sir; I read that in the press.

Mr. SOURWINE. Did you know that Mr. Wieland himself stated that he had made such a request?

Mr. OTEPKA. No; I did not know that.

Mr. SOURWINE. Now, if Mr. Wieland had made such a request in writing, would you be aware of it?

Mr. OTEPKA. Well, I could not say that I was necessarily privy to such information.

Mr. SOURWINE. All right. Why was security investigation of Mr. Wieland undertaken?

Mr. OTEPKA. Based on a specific allegation made to the Department of State by a responsible individual that he had information that Mr. Wieland was a Communist who had been known at one time by the name of Guillermo Montenegro or Arturo Montenegro.

* * * * *

Mr. SOURWINE. Now, Mr. Wieland at the time had a responsible position in the State Department, didn't he?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. He was an area officer for the Caribbean-Mexican affairs?

Mr. OTEPKA. That is right; he was the Director of the Office of Caribbean and Mexican Affairs.

Mr. SOURWINE. Now in that position did he have a security clearance?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. Do you know what that clearance was?

Mr. OTEPKA. He was cleared to have access to classified information up to and including top secret, and cleared for employment in a sensitive position in the Department.

* * * * *

Mr. SOURWINE. Now, does Mr. Wieland now have a sensitive assignment in the Department?

* Ibid., pp. 50-51.

Mr. OTEPKA. I am not aware that he has been assigned to any position specifically designated "nonsensitive"; then I assume he is working in a sensitive assignment.

Mr. SOURWINE. Mr. Wieland retained all the clearances he had before the investigation started; is that correct?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. And it was not a case of having to give him any new clearance, he has never lost it?

Mr. OTEPKA. He has never lost his clearance.

* * * * *

Mr. SOURWINE. * * * Now, do you know whether Mr. Wieland has been approved for assignment overseas?

Mr. OTEPKA. Well as I mentioned earlier, I saw a copy of a memorandum indicating that he had been approved by Mr. Jones, I believe it was sometime in September 1961, for appointment.

Mr. SOURWINE. Maybe I am wrong, Mr. Chairman, but I had better refer to these and get them in at the present time. These documents were furnished by Deputy Under Secretary Roger Jones in connection with his correction of his testimony.

He had been asked for copies of these documents and he has indicated on his corrected testimony at the committee:

"The memorandums referred to above were later supplied to the subcommittee."

So, these are technically a part of our record in connection with Mr. Jones' testimony.

Now, the first of these documents is headed "Memorandum," dated January 25, 1962. This is typed out as a copy on an ordinary letter-sized sheet.⁹⁶

First I will ask you, have you seen the original of this as it appears in the file?

Mr. OTEPKA. Yes, sir; I have.

Mr. SOURWINE. Does it appear on a letter-sized sheet?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. Is it typed or handwritten?

Mr. OTEPKA. It is typed.

Mr. SOURWINE. Now, the second is a copy. It is on the same sized sheet. It is typed. It says "U.S. Government memorandum." Date, September 18, 1961.⁹⁷

Have you seen the original of that, sir?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. And do you state that the original that appears in the record is a typewritten sheet approximately this size?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. And finally we have typed on the same sized sheet what is indicated as a copy of handwritten note September 15.⁹⁸ Have you seen the original of that document?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. And is that original on a typed sheet like this or is it a handwritten affair?

(After pause.)

Mr. SOURWINE. Is that the one you referred to as a chit?

Mr. OTEPKA. Yes, sir; it is a handwritten chit.

Mr. SOURWINE. In whose handwriting, if you know?

Mr. OTEPKA. It is in the handwriting of Mr. Hugh G. Appling.

* * * * *

Mr. SOURWINE. * * * We then have what appears to be this procedure. On the 15th of September Mr. Appling wrote a memorandum to Mr. Perry. Who is Mr. Perry in SCA?

Mr. OTEPKA. Mr. Perry was a staff assistant to Mr. Bontempo.

Mr. SOURWINE. What level would you say, approximately?

Mr. OTEPKA. Oh, I think he was a Foreign Service officer, class 4.

Mr. SOURWINE. Mr. Appling then wrote a handwritten chit to Mr. Perry dated September 15 and said:

"Re Mr. Bontempo's memo of September 14 on W. A. Wieland.

"Attached is copy of memo of September 8 in which Mr. Jones, having studied digest of Wieland case, approved Wieland's assignment as consul general, Bremen."

⁹⁶ State Department Security Hearings, pt. 1, p. 90.

⁹⁷ Ibid., p. 90.

⁹⁸ Ibid., p. 90.

Now, what was Mr. Bontempo's memorandum on September 14 on Mr. W. A. Wieland?

Mr. OTEPKA. This was a memorandum which I drafted after Mr. Bontempo had come on board and after I had personally notified my superior, Mr. Boswell, that I thought an irregularity had occurred in the handling of this case through the chain of command——

Mr. SOURWINE. You mean the Wieland case?

Mr. OTEPKA. Yes, sir; and I felt that this should be rectified, that Mr. Bontempo, in his capacity as the Administrator of the Bureau of Security and Consular Affairs under our established procedure, had to be filled in and should be allowed the opportunity to express his views on the recommendations of the Office of Security, and I drafted an appropriate memorandum for Mr. Bontempo for signature, and he so signed it.

Mr. SOURWINE. Can you furnish us a copy of the memorandum or would we have to ask the Department for it?

Mr. OTEPKA. I believe you will have to ask the Department.

Mr. SOURWINE. May I so ask, Mr. Chairman?

Senator HRUSKA. Yes, sir; and you are so directed.⁹⁹

Mr. SOURWINE. Now, I am puzzled initially about the fact that this chit appears to seek to relate a memo of September 8, in which Mr. Jones took action approving Bremen as a station for Mr. Wieland with a memorandum subsequently written by Mr.—by you for Mr. Bontempo's signature. Can you explain this?

Mr. OTEPKA. Well, I am similarly puzzled by this sequence of events and the fact that a handwritten chit was used by a subordinate officer to relate to an official explicit memorandum prepared for Mr. Bontempo's signature which is personally signed—I don't know how else I can explain that.

Mr. SOURWINE. Well, Mr. Bontempo's memorandum of September 14 was signed by him on that date as far as you know?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. And transmitted upstairs to Mr. Jones' office?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. Mr. Jones' office then got it later on the date September 14 or early on the date of September 15?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. And this chit was written by Mr. Appling on September 15, sometime during the day, and relates an action taken September 8, a memorandum of September 8, on which Mr. Jones took action to the September 14 memorandum. Now, does the September 14 memorandum of Mr. Bontempo call for a reply?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. What action did it call for?

Mr. OTEPKA. It called for a determination by Mr. Jones to whom the memorandum was addressed in his capacity as Deputy Under Secretary for Administration as to whether or not he concurred with the recommendation of the Office of Security with which Mr. Bontempo also concurred.

Mr. SOURWINE. Now, can you see anything in this handwritten chit of Mr. Appling's to indicate that the memo of September 8 was in reply to the Bontempo memo of the 14th?

Mr. OTEPKA. No, sir; reading the memorandum of September 8 in its proper context, all that it contained was a request to the Assistant Secretary for Administration for his approval of the assignment of Mr. Wieland to Bremen, which, as I explained earlier, is the standard operating practice for the Assignment and Review Board to seek concurrence at a higher level.

Mr. SOURWINE. Well, if the man is approved for the post while his security case is active, that is not the same as clearing him to go to the post, is it?

Mr. OTEPKA. I would say that the memorandum clears him to go to the post. It is an action based on his performance and his eligibility to have such a post, but has no bearing on his security where security concurrently is an issue.

Mr. SOURWINE. It is still subject to the resolution in proper fashion of the security case?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. All right. Mr. Boswell does not appear to have taken that view of the matter because 3 days after Mr. Appling's chit, under date of September 18 he sends this memorandum to you:

⁹⁹ The memorandum had not been furnished to the committee at the time this testimony was sent to the Printing Office.

"Please note the attached penned memorandum from Mr. Appling in Mr. Jones' office to Mr. Perry of SCA."

This raises a question: In the first place how did Mr. Boswell get this memorandum? Perry was not in his office. You said Perry was assistant to Bontempo. How did Boswell get this in the first place?

Mr. OTEPKA. I don't know.

Mr. SOURWINE. You never inquired how he got it?

Mr. OTEPKA. No, sir.

Mr. SOURWINE. But he got it; he got the original of the memorandum addressed from Appling to Perry?

Mr. OTEPKA. That is correct.

Mr. SOURWINE. And it was attached to this memorandum?

Mr. OTEPKA. That is correct.

Mr. SOURWINE. And it says: "Inasmuch as Mr. Jones has approved Mr. Wieland's assignment to Bremen, we should proceed with our notification to the Civil Service Commission."

What did you understand him to mean by that?

Mr. OTEPKA. I was at a total loss.

Mr. SOURWINE. And he said in the last paragraph: "This will, of course, be reaffirmation of his Executive Order 10450 security clearance."

Mr. OTEPKA. I pointed out to Mr. Boswell then, upon the receipt of that memorandum, orally, that I had made specific recommendations, with which Mr. Bontempo had concurred, and that this memorandum was not responsive to those recommendations because I discussed the man's suitability and security, and I expected a full and complete answer on both counts.

Mr. SOURWINE. All right. Now, we have a memorandum dated January 25 to you from Mr. Boswell which refers to the memorandum of September 8, and says: "* * * this will confirm that Mr. Jones today confirmed that Mr. Appling's handwritten note, dated September 15, constitutes his concurrence with Mr. Bontempo's memorandum of September 14, that no action against the employee is warranted or advisable in the interest of national security."

The last paragraph says:

"Mr. Jones also confirmed that the Department had determined that no further action need be taken regarding Mr. Wieland under the applicable authority and standards for the Foreign Service."

Did you understand this memorandum directed you to do anything?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. What did it, you think, direct you to do?

Mr. OTEPKA. Well, that memorandum was the first responsive indication I had that there was an adjudication on the merits of all of the issues in the case and so I promptly acted on that memorandum and I closed the case out to the Civil Service.

Mr. SOURWINE. Then you had an occasion when the Wieland case was closed out and the only evidence it was closed was a memorandum to you from Boswell?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. There was nothing from the Acting Administrator of the Bureau of Security and Consular Affairs—there is nothing from Mr. Jones in writing?

Mr. OTEPKA. No, sir.

Mr. SOURWINE. There is nothing from the Secretary of State?

Mr. OTEPKA. No, sir.

Mr. SOURWINE. Isn't this a little unusual?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. Do you happen to know the day on which the President held his press conference at which the name of Mr. Wieland was brought up?

Mr. OTEPKA. That was on January 24, 1962.

Mr. SOURWINE. You note that this memorandum which you say is the first written evidence you had that the security factors had been resolved was dated January 25, the next day. On this written record, Mr. Otepka, how can you defend the Department against the charge of trying to clear Mr. Wieland *nunc pro tunc*?

Mr. OTEPKA. I don't think I can defend the Department in its course.¹

Hipsley on security procedure

How unusual was the procedure in the Wieland case may be gathered from a comparison of what happened there with the testimony of

¹ State Department Security Hearings, pt. 1, p. 93.

Mr. Elmer Hipsley, former Secret Service agent, former assistant to Mr. Scott McLeod, and presently Chief of the Division of Physical Security in the State Department's Office of Security:

Mr. SOURWINE. Can he not just pass it along without anything on it? Can he not just say "Noted" and pass it upstairs? Would that be a violation of procedure?

Mr. HIPSLEY. I don't know whether it would be a violation of procedure, but the established procedure as I knew it, and perhaps this is the time to set this down—the suspension authority for an employee of the Department in a security case—in other words, an adverse determination—rests with the Deputy Under Secretary for Administration. To get it there, you have to have the concurrence of the Administrator of the Bureau of Security and Consular Affairs, Director of the Office of Security, and the Chief of the Division of Evaluations. Now, each of these people can reverse the decision and send the case back cleared.

* * * * *

Mr. SOURWINE. You say it has to have the approval of these officials all the way up, sir?

Mr. HIPSLEY. Yes, sir; the system of the Department of State, sir, is that an adverse decision for suspension or termination of an employee rests at the administration level. Before that level, you may clear, but below that, you may not charge or suspend.

Mr. SOURWINE. It is for the protection of the employee, then, that you must have the concurrence of everybody on the way up?

Mr. HIPSLEY. Yes, sir.

* * * * *

Mr. HIPSLEY. The system was designed to insure that the individual concerned had the protection of systematic and professional review.

Mr. SOURWINE. But if he does not have that protection—suppose these two men should be bypassed: What recourse does the man have?

Mr. HIPSLEY. Well, I know of no case where this has happened, to my knowledge.

Mr. SOURWINE. In other words, this is the procedure, and as far as you know, it is always followed.

Mr. HIPSLEY. Yes, sir.

Mr. SOURWINE. It goes up all the way. Then the Administrator of the Bureau of Security and Consular Affairs, you say he is at the Assistant Secretary level?

Mr. HIPSLEY. Yes, sir.

Mr. SOURWINE. Can he suspend?

Mr. HIPSLEY. No, sir; he can only recommend.

Mr. SOURWINE. He has to carry it up to a Deputy Under Secretary?

Mr. HIPSLEY. Yes, sir.

Mr. SOURWINE. And he has to sign it, I suppose, on the way, give his reasons?

Mr. HIPSLEY. Oh, certainly; he concurs or disagrees.

Mr. SOURWINE. In writing?

Mr. HIPSLEY. Yes, sir.

Mr. SOURWINE. Then it goes up, with his name on it and the names from all the way down?

Mr. HIPSLEY. Yes, sir.

Mr. SOURWINE. Then the Deputy Under Secretary; does he take it to the Secretary or can he act?

Mr. HIPSLEY. He can act.

Mr. SOURWINE. If he acts, does he do it in writing?

Mr. HIPSLEY. I think it would be appropriate; yes, sir.

Mr. SOURWINE. What is the policy? What is the standard procedure?

Mr. HIPSLEY. All those I have ever seen have been received back with signatures.

Mr. SOURWINE. It is the discretion of the Deputy Under Secretary whether he takes it up with the Secretary or the Under Secretary?

Mr. HIPSLEY. Yes, sir.

Mr. SOURWINE. If he elects to take it up with the Under Secretary, does the Under Secretary have to put his name on it, too?

Mr. HIPSLEY. Yes, sir.

Mr. SOURWINE. If he takes it up with the Secretary, does the Secretary have to put his name on it?

Mr. HIPSLEY. Yes, sir.

Mr. SOURWINE. Could not the Secretary simply say, "That is all right; clear it"?

Mr. HIPSLEY. I assume he could, sir, but here again, unless you have complete records documented in the file, you find yourself in the position of not knowing what happened in the final disposition of a case.

Senator DIRKSEN. This is like the old Army file, is it not? The first lieutenant puts on an endorsement and then you go up to the commanding general, but everybody gets a crack at it?

Mr. HIPSLEY. Yes, sir. But because it goes up in the channel of command does not mean that everybody agrees with everybody else. You may have basic disagreement in the beginning, then concurrence two places, then disagreement, then concurrence again. But the system was designed so everybody could put down their honest opinion based on the facts and get it to an authority at the Deputy Under Secretary level, where he could act.

Mr. SOURWINE. What would you think about a case which went directly from Evaluations to a Deputy Under Secretary, was decided by the Secretary, but had no signature on the case by the Secretary, the Deputy Under Secretary, the Assistant Secretary, the Chief of the Bureau, or the Director of the Office of Security? Can you conceive of such a case?

Mr. HIPSLEY. I guess I can conceive of it.

Mr. SOURWINE. Did you ever see such a case?

Mr. HIPSLEY. No, sir; I have not.

Mr. SOURWINE. What would you think about it if it came to your attention?

Mr. HIPSLEY. I would think it was improper.²

Mention of the September 14, 1961, memorandum of Mr. Bontempo (by Mr. Jones and in Mr. Appling's "chit") led the committee to ask for a copy of the Bontempo memo. The text of this memorandum, had not been supplied by the State Department in time for printing here.

Jones says Secretary decided Wieland case

Farther on in his testimony, Mr. Jones indicated that the Secretary of State himself had made the decision to grant a clearance to Mr. Wieland.

Mr. SOURWINE. And, as you say, you eventually took this up with the Secretary?

Mr. JONES. That is correct.

Mr. SOURWINE. Had you already made your own decision at the time you took it up with him?

Mr. JONES. No, sir.

In fairness both to him and to myself, there was one issue on which I had not made up my mind prior to my conference with him.

Mr. SOURWINE. So, really, in the last analysis it was the Secretary who decided this case, is that correct?

Mr. JONES. I made a recommendation before he decided it; yes, sir.

Mr. SOURWINE. But I mean you were with him at the time?

Mr. JONES. Yes, sir.

Mr. SOURWINE. And I take it he decided it in accordance with your recommendation?

Mr. JONES. That is correct.

Mr. SOURWINE. But the decision was his?

Mr. JONES. That is correct.

He did not decide it at that specific moment. I mean he reviewed the record first. We discussed it. He kept the record. Then we went back and had further discussion.

Mr. SOURWINE. And he evidenced his decision to you orally at that time?

Mr. JONES. That is right.³

Mr. Otto Otepka subsequently testified:

Mr. SOURWINE. Now, you said it was standard practice for each official handling a security case to sign off on it, either agreeing or disagreeing. Is that required by the regulations of the Department, or is it just good operating practice?

² State Department Security Hearings, pt. 4, p. 402.

³ Ibid., pt. 1, p. 48.

Mr. OTEPKA. I would say it is required. It is implicit in the regulations if you are making an adverse recommendation to separate a person in the interests of national security.

Mr. SOURWINE. Would it be improper in any way for the highest official, who saw a particular case, to simply report his decision orally to a subordinate and for that subordinate in turn to report the decision orally further down the line so that someone at a relatively low echelon would make the first written record of the decision?

Mr. OTEPKA. If it was a highly significant and highly controversial case, I would say it would be improper to dispose of the case that way.

Mr. SOURWINE. Well, now, isn't that the way the Wieland case was disposed of?

Mr. OTEPKA. The Wieland case was sought to be disposed of, as I was informed later, by a reference to a brief memorandum which was written by a subordinate officer of the Deputy Under Secretary for Administration, merely indicating that his boss looked at the case and decided that the man would go to a certain Foreign Service post, and there was no expression, specific expression, as to whether or not there was concurrence or nonconcurrence with the recommendations of the Office of Security.⁴

Mr. Otepka's testimony on the question of participation by the Secretary in the Wieland decision included this exchange:

Mr. SOURWINE. Do you have knowledge of any participation by the Secretary of State in the determination in the Wieland case?

Mr. OTEPKA. In the determination?

Mr. SOURWINE. Yes, sir.

Mr. OTEPKA. No, sir.

Mr. SOURWINE. Did you ever see anything in writing to indicate that the Secretary of State had participated in the decision in this case?

Mr. OTEPKA. No, sir.

Mr. SOURWINE. Did you ever see anything in writing to indicate that the Secretary had participated even in consideration of the case?

Mr. OTEPKA. Not in writing, sir.

Mr. SOURWINE. Have you seen anything or heard anything to indicate—

Mr. OTEPKA. Why, yes, I was aware that the Secretary was interested in the progress of the case and its eventual resolution.

Mr. SOURWINE. I had understood you to tell us earlier that the case did not come up to the Secretary at all, if it was decided favorably at the level below.

Mr. OTEPKA. That is correct.

Mr. SOURWINE. And if it was decided adversely it went only to the Secretary after they had produced the charges at a hearing.

Mr. OTEPKA. Yes, sir; that is correct.

Mr. SOURWINE. Well, under those circumstances, if that is the proper procedure, how would the Wieland case ever have reached the Secretary?

Mr. OTEPKA. Well, I would assume Mr. Jones, because of the highly controversial nature of the case and the attendant publicity of the case, that he talked to the Secretary about it. He told me that the Secretary was interested in the case.

Mr. SOURWINE. Well, you had told us earlier it was the Deputy Under Secretary's responsibility to either clear or to make an adverse decision which resulted in suspension.

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. And if it was cleared, the case did not have to go up to the Secretary at all. Now, if this case had been acted on—in fact, Mr. Jones acted and Mr. Jones cleared him; isn't that right?

Mr. OTEPKA. Yes, sir.

Senator HRUSKA. Would that have precluded the Secretary of State from having knowledge?

Mr. OTEPKA. No, sir.

Senator HRUSKA. Or interest in the case notwithstanding it did not come to him on an appellate basis?

Mr. OTEPKA. No, sir. The Secretary is not precluded at any time from expressing an interest—

Mr. SOURWINE. But what I am attempting to ascertain, Mr. Chairman, if the Secretary of State had himself taken hold of the case, which he had every right to do any time he wanted—

Mr. OTEPKA. Yes, sir.

⁴ State Department Security Hearings, pt. 1, p. 88.

Mr. SOURWINE. And decided it, then the records would show that the Secretary had decided it, wouldn't they?

Mr. OTEPKA. In my experience as a security officer, I would say "Yes." I would say that the Secretary should have indicated in writing his decision in the case.

Mr. SOURWINE. Even if the Secretary had gone so far out of the normal line to make the decision and impose it by saying to a subordinate, "Mr. Jones, I decide that case in favor of Mr. Wieland, so note," it would have been incumbent upon Mr. Jones to make some memorandum to show that the Secretary of State had decided the case, wouldn't it?

Mr. OTEPKA. I would think so.

Mr. SOURWINE. Well, wasn't it Mr. Wieland's right, as well as everybody's right, to know what the decision was?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. If the Secretary of State in fact, having received Mr. Jones' recommendation that Wieland should be cleared, considered that recommendation, and decided that he should be cleared and instructed Mr. Jones to clear him, if that is the fact as to what happened, is the record in the case in proper shape today?

Mr. OTEPKA. There is no indication in the security record of the Wieland case of the Secretary's participation in the adjudication of the case, so I would say the record is incomplete in that respect, if he did in fact participate.⁵

Mr. Otepka testified that it would not be normal for a case to go up to the Secretary of State from the Deputy Under Secretary when the latter favored granting clearance:

Mr. SOURWINE. In other words, a case normally does not go up to the Secretary from the Deputy Under Secretary unless, first, the Deputy Under Secretary concurs in adverse findings that have come all the way up and then after hearing there is a determination that the individual should be removed.

Mr. OTEPKA. Should be removed; yes, sir.

Mr. SOURWINE. And this is true because if the Deputy Under Secretary is in favor of clearing the man, he has authority to do it. He doesn't have to bother the Secretary about it.

Mr. OTEPKA. That is correct, sir.

Mr. SOURWINE. And if he determines that the adverse finding is correct, he has to go through this hearing procedure, notice and charges and hearing, before action can be taken.

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. And so the Secretary isn't bothered at that level?

Mr. OTEPKA. He is not.⁶

It is very difficult to understand why, if indeed the Secretary of State made the decision in the Wieland case, the files of the State Department show nothing in writing by Mr. Jones to indicate this fact; and the Applying "chit," said by Mr. Jones to be the written evidence of the clearance of Wieland, not only makes no reference to clearance, but makes no reference to participation by the Secretary; and the memorandum of Mr. Boswell directing that clearance papers be sent to the Civil Service Commission likewise makes no reference to any participation by the Secretary, although the testimony before the subcommittee, as well as Boswell's memo to Otepka, indicated Boswell had talked with Mr. Jones about the Wieland case before writing that memorandum.

⁵ State Department Security Hearings, pt. 1, p. 108.
Ibid., pt. 4, p. 462.

CONCLUSIONS

No procedures and no system can be successful in protecting our State Department and our embassies around the world without both public and official recognition of the impelling need for reasonable security.

This need, which involves not only protecting national secrets, but also guarding against infiltration for purposes of policy perversion or impedance, does not have to be underlined in the light of world developments and communism's consistent, and still continuing, dependence everywhere upon espionage and subversion.

What is most needed in the State Department's security setup is control by professional security officers to prevent penetration. Neither the State Department, nor its security officers and officials, has revealed the name of a single person who has left the Department for security reasons except in those very few cases where legal prosecution was found necessary. Paradoxically this protection of the individual—the inability to explain—has played a part in creating an atmosphere which can only be described as unfriendly, if not antithetical, to good security. Individual fear of misapplication of security measures, understandable when almost no one was covered by security clearance, seems to have carried over and contributed to this adverse atmosphere. It is no longer valid since for years everyone has required clearance under Executive Order 10450, and persons unjustly criticized on security grounds have been protected time after time by security officers and officials.

It is worthy of note that a British white paper, issued immediately after the Burgess-McLean incident, declared that in the current situation, when the rights of the individual and the rights of the nation come into conflict, the balance should be tilted in favor of the nation. We do not go this far. We do believe, however, that the fact there is a national problem, and that it involves everyone's safety and perhaps survival, should be given due consideration.

If the will to insure good security in the Department of State exists, or comes into being, closing the security gap by the adoption of effective procedures and proper organization will be possible, despite the complexity of the problem, motivation is the master key.

The subcommittee believes that most of its recommendations are capable of being carried out by administrative action but is prepared to submit legislation if, and where, necessary.

The subcommittee is convinced that it is essential to—

1. Assure continuity under professionals in State Department security operations, particularly in the Evaluation Division which appraises personnel security files and reports.

2. Assure a high standard of professional competence, particularly in evaluation and in physical security.

3. Establish and maintain a fixed and responsible chain of command from the investigative and reporting levels through the top administrative offices all the way to the Secretary of State's office.

4. Insure that the decisions of top professional security officers, taken on the basis of long experience, will be overruled only in exceptional cases, where there are overwhelming considerations involved, and then only in writing and with a statement of reasons for the action.

5. Eliminate all waivers of prehiring investigative requirements except in most exceptional and rare cases.

6. Be prepared to take firm decisions based on set criteria and not personalities. In this connection, the subcommittee recommends that the Department of State adopt quickly a system of "selection out" such as those in force in the Army and Navy, and that personnel with security blemishes on their records be the first selected out, ahead of "suitability" cases where no security faults are involved.

8. Establish a "double" control or "dual" control on security of intelligence information to make sure that important or "hard" items of information in FBI and CIA reports reach the Secretary of State, the President, and the National Security Council, possibly in abbreviated, or capsule, form. It is ridiculous that the Secretary should be dependent for such information as the Communist nature and control of the Castro movement in Cuba upon a single long chain of transmission where human failure, whether accidental or intentional, can occur.

9. Place the personnel and security offices in the same bureau, and thus under a bureau chief of professional competence named by the President with the "advice and consent" of the Senate.

10. Remove the ranking Department officer dealing with security and personnel matters as far as possible from either career or political pressures. Security should be impartially administered.

In this connection, it would seem unwise, for a variety of reasons, for the Foreign Service to police itself.

One is that this makes security officers responsible primarily to their immediate chiefs in the Foreign Service, rather than being able to maintain a somewhat detached and objective viewpoint. Foreign Service officers are supposed to conduct, or assist in conducting, our diplomatic and consular activities abroad and in Washington and to supervise these. They should not become specialists in the fields of personnel and physical security to the extent now being undertaken and contemplated.

This subcommittee does not believe that the Office of Security should ever be headed by a Foreign Service officer whose primary interest properly lies in protecting members of his corps, whether good, bad, or indifferent. Rather, it is believed that the interests of the Foreign Service in security should be maintained by close cooperation between the Director General of the Foreign Service and the Assistant Secretary charged with security. The ranking review officer—presently the Deputy Under Secretary for Administration—and ultimately the Secretary—can resolve differences when necessary.

This is expressed as a general principle on the basis of exhaustive information. It is hoped, however, that legislation in this sense will not prove necessary. It is recognized that at some point exceptional circumstances may arise and that there are Foreign Service officers with adequate FBI and intelligence backgrounds.

With regard to continuity in evaluations, it is clear that this can be achieved only by employing the highest type of non-Foreign Service personnel exclusively, so that there will be no constant changes and rotation.

Security is a continuing business and familiarity with cases is essential. The Communists are constantly developing new ways of penetrating our physical security arrangements and in this, too, particularly

at headquarters and in regional offices overseas, non-Foreign Service technicians should be employed.⁷

The subcommittee would not presume to tell the Department how to fix responsibility for each security action but would point out that there has been excessive "free wheeling" in this connection as evidenced by confusion discovered and unsatisfactory results. Some sort of fixed paper transmittal system, not only for routine but for unusual actions, would seem to be indicated.

The Assistant Secretary for Security and Personnel (or Administrator), should have a security background and broad general experience with personnel. While it is not essential that he have legal background, this obviously is of help in the security and personnel area.

It has been suggested that the chief administrative officer dealing with personnel and security be named, as is the Comptroller General of the United States, for 15 years, in order to remove him from career and other pressures. While something of this sort may ultimately prove advisable, it would seem better, under our system, in which the Secretary of State is responsible ultimately for everything in his Department, that he make certain that there is general understanding that the position will be held by a person in a position to take a detached view and with instructions to act objectively and impartially.

With regard to the very important matter of establishing a dual security control on all vital intelligence information, it may well be that—as has occasionally been done in the past—the Director of the Federal Bureau of Investigation and the Director of the Central Intelligence Agency could send a capsule digest of such information direct to the Secretary of State, with a copy to the chief of the bureau acting as liaison within the State Department. A longer report, or a duplicate would go up through normal operational channels, starting with the country desks, or regional offices, and thence through the Assistant Secretaries above them.

Another method would be for the Bureau receiving FBI or CIA information to send one copy through normal operative channels and another marked "For the Secretary" through the Department's ranking administrative officer.

It is most important that State personnel initially receiving both FBI and CIA information be most carefully selected and acceptable to both organizations. Another check could be to make such persons responsible for both routing and ultimate delivery.

Inadequate responsibility for the original preparation of policy papers, and overemphasis upon wording rather than content in the consideration of such papers, are both deeply ingrained in normal State Department procedure; and both constitute threats to the internal security of this country.

Responsibility for policy papers should be fixed from the outset, and such papers should carry at all stages the name of the original drafter or drafters, and the names of those who have approved at different levels.

⁷ It is considered tragic that one of several physical security officers most expert in electronic devices should have been almost forcibly enlisted in the Foreign Service and transferred to a one-country African post where, by happenstance, he died.

To avoid confusion with regard to approval, and to counteract the present overemphasis on wording over content, every policy paper should be topped by the briefest possible statement of the policy determinations it embraces, with particular emphasis upon any policy changes involved.

SENATOR THOMAS J. DODD

I. THE WIELAND CASE

Subsequent to the preparation of this report, I had occasion to discuss the Wieland case with Secretary of State Rusk and to examine certain documents which he showed me in confidence.

On the basis of these conversations, I am satisfied that, prior to September 15, 1961, Secretary of State Rusk had examined the material pertaining to the Wieland case in considerable detail, including reports of the Federal Bureau of Investigation; that he had at that time also discussed the matter with the President, who had in turn, spent some time examining the Wieland case file; and that he had subsequently advised Mr. Roger Jones, Deputy Under Secretary of State for Administration, that after examining the evidence, he had decided that Mr. Wieland could not be considered a security risk, although Wieland may have displayed questionable judgment at a number of points. The Secretary of State and the President found no reason to revise this judgment when they reconsidered the case during the first part of January 1962.

Unfortunately, that the time they made their determination, the Secretary of State and the President did not have available to them the complete record of the hearings relative to the case of William Arthur Wieland, which continued into June, 1962.

It is to be noted that the question of loyalty has never been raised in connection with the Wieland case. This was made clear by the testimony of Mr. Otto Otepka, Chief of the Evaluations Division of the Office of Security, Department of State.

Mr. Otepka, in his report, however, did find against Mr. Wieland on grounds of suitability and integrity.

Based on the testimony given before the subcommittee, I share the doubts of my colleagues about the wisdom of retaining Mr. Wieland in any position in the Department that could properly be assigned to a man of his rank.

I realize, however, that there can be honest differences of opinion in making determinations based on the factor of suitability.

Although, as a matter of my own considered judgment, I have differences with their findings in this case, I believe that the President and the Secretary of State, on the basis of the information made available to them, and according to their own lights, acted responsibly and carefully, guiding themselves by what they considered to be the strict requirements of the security regulations, in making their determination in the Wieland case.

In this connection, it is interesting to note that in the case of John Stewart Service, which this report touches upon, a negative finding as to suitability was made by the evaluating officer; his finding was reversed by the Chief of the Security Division; his finding, in turn, was reversed by the Chief of the Bureau of Security and Consular Affairs; and, finally, Mr. Service was cleared by Mr. Loy Henderson, Deputy Under Secretary of State for Administration.

In terms of integrity and hard anti-Communist opinion, there was nothing to choose between the two State Department officials who found against Mr. Service and the two State Department officials who found in his favor. Their conflicting conclusions simply confirmed, once again, that honest men can read the same record in different ways.

It is my hope, however, that the State Department officials concerned will take the time to read the entire record of the Wieland case as it unfolded before the Subcommittee on Internal Security and to reexamine the massive documentation built up by the Evaluations Division in the course of its investigation.

It is also my hope that, in consequence of this investigation, the State Department will tighten up its procedures. It is almost beyond comprehension that, after Secretary of State Rusk had considered the Wieland case and informed Mr. Roger Jones that he had cleared Mr. Wieland of the charges against him, no written memorandum which established the fact that Mr. Wieland had been cleared by action of the Secretary was placed in the files of the Department until more than 4 months later.

This is poor administration of the law.

II. PASSPORT REGULATIONS

I should like to add the following personal observations to the findings of the subcommittee.

While our investigative agencies are highly competent, it may be necessary, to guard against the possibility of error, to institute administrative procedures for appeal and review, similar to the procedures followed by the Immigration Board of Appeals.

As for the right of confrontation, I think it is noteworthy that the British Government, whose laws protect the rights of the individual as jealously as do our own, does not grant the right of confrontation in government or industrial security cases.

III. THE OFFICE OF SECURITY

Since the testimony which is the subject of this report was taken, there have been several notable improvements in the security structure of the Department of State. Under Mr. William Orrick, the new Deputy Under Secretary for Administration, the Office of Security has been separated from the Office of Consular Affairs and the director of the Office of Security has been made immediately responsible to the Under Secretary of State, rather than, as was previously the case, to the Administrator of the Bureau of Security and Consular Affairs. Moreover, the new director of the Office of Security, Mr. John F. Reilly, is a former FBI man, a professional in the field of security, who has been assigned to his present position on a career basis rather than as a transient visitor from other Government employment. He holds the rank of Deputy Assistant Secretary for Security.

In my opinion, these are most salutary developments.

IV. THE ATTEMPT AT SURVEILLANCE OF CONGRESSIONAL CONTACTS

I consider it important to draw attention to another matter which is the subject of the testimony released in conjunction with this report.

On February 19, 1962, the Assistant Secretary of State for Congressional Relations endeavored to institute a strict surveillance of all contacts between employees of the Department and Members of Congress or of congressional staffs. This misguided effort had nothing to do with security; it was, on the contrary, the kind of bureaucratic protective surveillance that one would expect to find in an authoritarian state.

Under the terms of the instructions issued by the Assistant Secretary of State, all officers of the Department were requested, after any meeting, telephone call, or social contact with Members of Congress or members of their staffs, to fill out a report card dealing with the subject of the conversation and the comments and attitudes of their congressional correspondent. These cards were to be turned in before the close of business each Friday, so that they could be incorporated into a central file of congressional contacts.

Testimony on this matter was taken by the subcommittee on March 14. After establishing the facts about the memorandum that had been circulated to State Department employees, the following exchange took place between the counsel for the subcommittee and the witness at the time, Mr. Elmer Hipsley, Chief of the Division of Physical Security.

Mr. SOURWINE. I do not want to put you on the spot, but does that not rather impress you as an infringement of a man's privacy and his constitutional right of freedom of association?

Mr. HIPSLEY. Since you put me on the spot, I will answer it. Yes, I think it does.

In my own opinion, there is absolutely no doubt that the directive of February 19 did represent a violation of constitutional freedoms, in addition to which it was a gross affront to all Members of Congress.

On March 22, the Assistant Secretary for Congressional Relations, wrote to me to say that, in view of congressional objections, and since it was his desire to strengthen the Department's relations with Congress, the reporting procedure set up by the memorandum of February 27 had been discontinued. The memorandum instructing the offices of the Department to discontinue the practice was dated March 14—that is, the day on which the subcommittee took its testimony on this subject.

The State Department displayed rare and altogether commendable flexibility in rescinding this directive. At the moment of writing this supplemental report, however, I have been informed on reliable authority that an effort is again being made within certain divisions of the Department to place all congressional contacts under centralized control and surveillance.

It is my earnest hope that this report will prove inaccurate, because nothing could do more to poison the relations between Congress and the Department of State.

SENATOR ROMAN L. HRUSKA

This report, quite properly, makes no point of the circumstances under which Fidel Castro came to power. But I consider it important that these circumstances be kept in mind, as background for consideration of the situation in the State Department which our investigations have revealed.

The plain truth is that the U.S. Department of State was the principal collaborator in creating the vacuum into which Fidel Castro stepped. It may not have been error that we withheld arms from the Batista government, stopped shipment of training planes previously promised, and in other ways made it clear not only to Cubans, but to the world that we were opposed to the Batista dictatorship. But the timing of these actions was bad. I do not argue that we should have supported Batista; but we should have made sure that he was succeeded by a democratic government. Trading a non-Communist dictatorship for a Communist dictatorship is no bargain. If we had preserved the situation in Cuba for just 2 months and brought about a peaceful transition to the already-elected government of Rivero-Aguero, it should have been possible to go on from there and develop a government truly responsive to the will of the people of Cuba. But instead of attempting this, we notified Rivero-Aguero we would not support him; our Ambassador, under instructions, told Batista the United States had lost confidence in him, and he had better go; and then we got word to Batista's generals that the only thing for him to do was flee the country. It seems to me that something more than bad timing was involved in all this. Our hearing record has established that all during this time there were those in the State Department who were favorable to Castro, who were suppressing or failing to pass on to their superiors intelligence showing Castro's Communist connections. It is not always necessary to involve a policymaker in a conspiracy in order to get him to act wrongly. It may be enough that he has to act on wrong information, or perhaps even on inadequate information.

I commend the hearing transcripts released with this report to the careful reading of the press, of all students of government, and especially to those in the executive branch who may be in a position to bring about correction of the undesirable conditions those hearings reveal. There is much in the hearings which this report, comprehensive as it is, does not specifically mention.

One of the things which worries me most, among all we have learned of the State Department, is the apparent tendency to punish and silence any employee of the Department who tries to insist on good security practices, when that conflicts with the plans or wishes of some superior officials; or who exposes a bad security situation to a congressional committee. This is a deplorable tendency, and one which must be curbed. In the case of two employees of the Department, Miss Frances Knight and Mr. Robert Johnson, of the Passport Office, the subcommittee got the Department's commitment that no

reprisals would be attempted. I am disturbed that, notwithstanding this commitment, there has been intimation of plans to take one or more actions against these officials, along such various lines as curtailing authority, decimation of the Passport Office by transfer of functions, imposition of a censorship requiring all communications by the Passport Office with Congress to go through a designated individual in another office, or (in Mr. Johnson's case) transfer of him and the Passport Office Legal Division which he heads to the jurisdiction of an official outside the Passport Office. Should any of these actions be taken, or any other actions constituting a violation of the Department's no-reprisal commitment, I as one member of the committee shall vigorously urge the necessity for committee action, and for action by the Congress, if necessary. What is involved here is the integrity of the congressional investigative process. If we cannot protect witnesses who appear and testify at our call, we might as well shut up shop.

It is highly regrettable that an early draft of this report was made available to a newspaperman in an unauthorized manner. I am ashamed to think that anyone connected with the committee would so far forget his obligation to the Senate, and would have so little regard for the reputation of the committee, and so little dedication to our task.

SENATOR KENNETH B. KEATING

The facts documented in this report shed considerable light on some of the mistakes which led to Castro's rise to power, the inadequacies in the State Department's policymaking and security procedures, and the muddled passport situation.

They indicate that a breakdown in the process of transmitting vital intelligence to top echelon State Department officials has contributed to serious errors in judging Castro's character and intentions, and has resulted in a failure to formulate policy based on this intelligence. There is no evidence that any steps have been taken to close this intelligence gap. On the contrary, the highly questionable security practices of the Department described in the report suggest that we have not learned from the mistakes of the past.

The unfortunate Cuban people are the victims of these tragic errors. It is obvious now to everyone that a ruthless Communist tyranny has supplanted the cruel dictatorship of the Batista regime. Our mistake was not in failing to keep Batista in power, but in failing to take the steps necessary to make certain that his Fascist regime was replaced by a free government responsible to the Cuban people. Instead, we permitted a Communist puppet to take over and establish a Soviet base just off our shores. It is not the function of any congressional committee to try and convict individuals, but it is my hope that this report will lead to the adoption of more sensible State Department procedures for preventing a repetition of the errors documented in this report.

The passport muddle which now exists is partly the fault of the Congress, which has failed to enact any legislation on this subject despite the urgent pleas of the prior administration after the Supreme Court's decision in the *Kent* and *Briehl* cases. Existing law prohibits passports to Communists because it is recognized that the freedom of movement of Red agents armed with U.S. passports can be of great assistance in carrying out their conspiratorial plots. The denial of a passport can be a severe penalty and should only be permitted under procedures which assure elemental fairness to the applicants. But this does not require a breakdown in all passport controls, and legislation has been pending for many years which would assure fairness in such cases without permitting known Communists to obtain U.S. passports. It is incredible to me that in this long session of Congress, no time could be found for consideration of this vital and long overdue legislation.

APPENDIX

VIEWS OF SECURITY AND PASSPORT OFFICES (SEE P. 66)

JANUARY 5, 1962.

To: O—Mr. Roger W. Jones.

From: SCA—Michel Cieplinski, Acting Administrator.

Subject: Proposed regulations on the issuance of passports.

Attached are the Legal Adviser's proposed amendments on regulations covering the issuance of passports (22 CFR sec. 51.135–169) (tab A). This draft was transmitted to SCA by the Legal Adviser's Office on January 4, as a final draft to be submitted for approval by the Secretary today and referred for immediate publication in the Code of Federal Regulations. We have reviewed this draft in careful detail and feel that as drafted it would be virtually impossible to administer and misleading in that it would not result in the denial of passports to any Communists except the most notorious. In other words, the Legal Adviser's draft is unacceptable to SCA and the Passport Office. For instance, under section 51.138(a) "Procedure for Review of Tentative Denial," there is provided (as underlined in red) that the applicant will be informed of the evidence, etc. In part (b) of this section, it is stipulated that the Passport Office shall not make use of confidential security information. Further, in section 51.142, the Board is precluded from using confidential information in making its determinations. Again, in section 51.163 under "Hearings," the applicant must be informed of all evidence before the Board. Simply stated, the Board will not consider or receive any confidential information which constitutes the major portion of information in Communist cases.

The Passport Office, on December 15, 1961, had sent to the Legal Adviser's Office its version with comments on proposed rules and regulations governing the issuance of passports. It is believed that the regulations as proposed by PPT, particularly subpart (e), copy attached, tab B (the numbering system does not coincide with that prepared in the Legal Adviser's Office) is more meaningful and realistic so far as concerns the proper administration of passport control in the Communist area.

I strongly urge that the rules and regulations as proposed by the Legal Adviser's Office be revised in certain important aspects and cover those important aspects provided in the version submitted by the Passport Office.

It would be appreciated if your office would withhold approval of the Legal Adviser's proposal until these positions can be reconciled.

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