in those cases in which the informant desired that there was anything to be kept in such confidence.

These reports upon a particular case go to the Civil Service Commission. They in turn, I understand, refer them to the agency of the Government in which the employee is at the time assigned, and that agency will review those reports and the Loyalty Board will in due time have a hearing and accord the employee the opportunity to be present with counsel and to answer such questions and charges as the Board may prefer. If they desire any agent of the Federal Bureau of Investigation to appear at those hearings to testify as to matters of which the agent may have first hand knowledge, and not hearsay information, the agents ~~have~~ appeared and ~~so~~ testified.

Then the employee, if he is found to be disloyal under the Presidential directive, has a right of appeal to the Presidential Loyalty Board. That is a very general statement. There are a lot of minor steps I skipped for brevity purposes.

Senator Green. That is a rather elaborate course of screening.

Mr. Hoover. Yes, I would say it is a rather elaborate course of screening.

Senator Green. Is it a course which you would say was easily adopted?

Mr. Hoover. I think it was the most practical program that could be adopted at the time it was adopted. Maybe there

are a few kinks in the program that could be ironed out. The President has at all times been studying that. I know very recently he requested the Attorney General and myself to offer any suggestions or views that would be of assistance toward improving or tightening that program. We have given earnest consideration to that. I think all in all it was a very fair procedure.

In the early stages of the loyalty program, Senator Green, there was a great hue and cry on the part of some of these pseudo liberals that it was a so-called "thought control" or "thought policing". It has been found after checking over 2,000,000 loyalty forms that there have been very few abuses, if any, that have actually taken place, either in the investigating or the hearings that have been reported, and in the investigations where there was some minor slip, corrective measures have been, of course, taken.

I think it has worked very well and I think that is the consensus of the better thinking members of the press who have had an opportunity to view it and observe it first hand.

Senator Green. I thank you very much for that statement, because I think it will restore confidence on the part of a great many people where it has been somewhat shaken.

Senator Tydings. Senator Hickenlooper?

Senator Hickenlooper. I notice again in your statement, as I noticed in the Attorney General's statement, a repeated and

continued emphasis upon the opening of files for public disclosure. It has never been my thought as a member of this committee, and I have heard no mention on the part of the subcommittee, that any of these files were to be opened by this committee for public disclosure. Also, the question of so-called raw files has come up in the Attorney General's statement.

As you stated a moment ago, I believe that you either symbolize or give reference by number to the source of information on the part of those people who do not like to have their names disclosed.

Mr. Hoover. That is correct, and when we submit that report to the Civil Service Commission in the loyalty cases it is a summary of the file in the Bureau.

Senator Hickenlooper. A great many of your reports adequately serve the purpose when they are in fact summaries of all the information which you have gathered about an individual, is that not the case?

Mr. Hoover. I would assume that that is the case. We have had very few complaints about it.

Senator Hickenlooper. Are you aware of loyalty files that have been made available to individual members of Congress or to Congressional committees of either the House or the Senate?

Mr. Hoover. By whom?

Senator Hickenlooper. FBI reports or files.

Mr. Hoover. By whom? Just a minute. Who made the files available to members of Congress? Not anybody in the FBI ever made them available.

Senator Hickenlooper. I did not ask about the individual. I said, are you aware of any occasions when FBI investigative files have been made available by anybody to Congressional committees or to individual members of Congress?

Mr. Hoover. I am not aware of any loyalty reports being made available to any committee or any agency or any individual in the government, because there is a direct Presidential directive prohibiting it. I know in so far as the Federal Bureau of Investigation is concerned, no confidential reports of that Bureau have ever been made available to anybody.

Senator Hickenlooper. What is the situation about the Senate Judiciary Committee in connection with the investigation of Federal judges?

Mr. Hoover. In connection with the Senate Judiciary Committee, there is again a so-called summarization of a file. The raw file is not made available to the committee, by reason of the fact as the Attorney General has explained this afternoon, that there is a different principle involved in making available to a committee passing on the qualifications for confirmation of a man to a judicial post than there is involved in this over-all problem of internal security.

Senator Hickenlooper. Do you consider that problem more

important than the question of making available information to a committee that is trying to investigate alleged subversive activities which may go to the heart of the national defense or our whole national security?

Mr. Hoover. I am not endeavoring to evaluate which is the most important or which is the least important, Senator. I am stating to you that as Director of the Bureau, in the years I have been Director I have consistently urged the Department not to yield access to these raw working files or to the summaries in the internal security cases. I can be overruled in that opinion by the Attorney General or the President. Up to the present time the Attorneys General have supported that and the various Presidents have supported that position. I think there is a great difference between an active file; a file that is in question before this committee upon which this committee was seeking access to the records is an active working file in current investigation. I do not think that file should be made available to you.

Senator Hickenlooper. In the event this committee made it clear that what the committee was seeking was an accurate summarization of the active working file, rather than the active working file itself--

Senator Green. May I draw my distinguished colleague's attention to the fact that we were directed to obtain by subpoena, if necessary, and exame, the complete loyalty and

employment files and records of government employees in the Department of State, and so forth? Nothing was said about summaries.

Senator Hickenlooper. Getting back to the question that I was asking you, Mr. Hoover--

Mr. Hoover. I will answer the question, Senator, that I would certainly recommend to the Attorney General that any summarization not be made available to the committee in an active internal security case, for the very reason that even though we summarize the file, the person reading that summary could very readily draw certain conclusions and deductions therefrom as to where the information might have been obtained. It might be to the embarrassment of informants, and again it is a matter of principle and one of degree. I have the utmost respect for this committee ~~or~~ and for its integrity, but if we yield in this one case we break a precedent that will plague the Department and certainly, I think, materially interfere with the efficient operation of the FBI in future years to come. Other committees will ask for it. It is entirely within the realm of possibility, maybe not probability, that there might be a committee in which we would not have the same confidence we have in this committee. There have to be certain principles set and adhered to or the floodgates will be opened.

Senator Hickenlooper. May I ask you, Mr. Hoover, a question I asked the Attorney General, which he said you were

better qualified to answer, and I believe that is true. How many clerks and stenographic personnel and other people have access to the information, or at least substantial parts of the information, that are contained in these files, by way of compilation?

Mr. Hoover. I would say, Senator, that there would be probably not more than half a dozen. That would be a maximum number, a half dozen employees of the Bureau who would have access to the entire, whole working file. There are many clerks who will file certain papers into a certain file and will make an index card, but the file is restricted to requests from a particular supervisor or supervisors who are supervising that case, and from the Assistant Director in charge of that division and myself. The file is not allowed to be examined by any clerk or employee just for the purpose of curiosity.

I may also say, Senator, that each one of those employees of the Bureau has been thoroughly investigated as to their integrity, their loyalty, and as to their security risk, and we have never had a leak from those files. I don't mean to infer that any committee on the Hill or any of its staff may be not as good a security risk as our employees, but I do not know whether they have been investigated, I do not know whether they have been checked as thoroughly as our people, and again, as I say, the danger of a leak from the Bureau--and I do not

say it is beyond the possibility of a leak in an organization that has 10,000 employees, but to date we have never had that occur to us.

Senator Hickenlooper. I might suggest, Mr. Hoover, that there are at least two or three members of this committee, I think, that have had access to a great many files. The Senator from Connecticut and I have had access to many files of the Atomic Energy Commission that are investigative files. I believe the Senator from Maryland has had access to certain files and information, and I do not believe any of us as a result of that have leaked any information. I do not know about Senator Green or Senator Lodge.

Senator Tydings. Just for the record in case there is a leak, the Senator from Maryland has not read any of these summaries, purposely.

Mr. Hoover I want to make it very clear that I am not insinuating any lack of security on the part of this committee. As I tried to treat the point in my statement, it is a matter of principle, and if we yield in this particular request of this committee, which probably has members equally secure as any high officials in Government, you are setting a precedent and opening a floodgate that is going to plague the Department of Justice and materially interfere with the security work of the FBI.

Senator Hickenlooper. I an understand your zeal, Mr.

Hoover, in the inviolate protection of your files and your investigative procedures. But I do want to observe that this committee has been specifically charged with investigating certain allegations and charges. It is beyond my conception as to how this committee can investigate the subject matter of the individuals charged, in their own interest and in the interest of the public, now that the charges have been made, if we are denied and have the door shut in our faces on information, pro or con, which is officially in the hands of the Government, but which we can not see and which we can not use in evaluating the merits or the demerits of this investigation. That is the impasse to which we seem to have come, and I would be the last one - I am not perhaps the last one; I do not mean to discredit anyone else. There are a great many other people that would defend the integrity of your files and the integrity of your investigative system to the utmost. I am perfectly willing to do that. But I am anxious for someone to tell me how I can discharge my responsibilities as a member of this subcommittee when I do not have access to information in the hands of the Government upon which to make up my own independent judgment as to the merits or the demerites of these charges. That is the impasse that confronts me as a member of this committee, and I personally feel that there is not only no intention, but no possibility, of any disclosure of specific information in any of these files that would be made

by this subcommittee unless and until full consultation and agreement with the proper authorities had been later had that such disclosure was all right.

Mr. Hoover. I agree with you in that conclusion. On the first I can not give you any assistance, as to how to break that impasse.

Senator Hickenlooper. I sadly agree that you can not give me any assistance on that.

Senator Tydings. I am going to defer to my colleagues in asking questions and save mine until the last, but I would like to ask you one question about something you have touched on with reference to judges.

I would assume that one reason these summaries of the FBI files are made known in the case of an applicant for appointment to be a United States judge, whether it be for one of the lower United States courts or the highest, would be predicated on the fact that once he has assumed office, he can not be gotten off the bench except by death, retirement, or impeachment, whereas in the case of all other individuals who work for the Government who are not elected, they can be discharged or released without that situation requiring impeachment. Is that one of the reasons, in your opinion, for this exception to what might be called the strictness of the FBI in not disclosing the files?

Mr. Hoover. I think the Attorney General can answer that

probably better than I.

Attorney General McGrath. It goes beyond that. The applicant for the job knows in advance that the FBI is going to make an investigation and the results of that investigation are going to be made known to proper officials. He is in a much different position when he seeks that position than is the non-innocent or innocent employee who is suddenly subjected to an investigation of his personal affairs without any desire on his part so to be investigated. I think that makes a big difference.

Senator Tydings. Furthermore, the judge sits with the power of life and death in many cases of the the citizens of the community, and I am reminded that after the Punic Wars, when Solon was commissioned to write the laws for ancient Greece, for the first time he gave the people the right to vote only for the judges who would sit upon their crimes and misdemeanors, for the reason that that is one thing above all others that must have every security thrown about it, and if people elect their own judges, obviously they must have confidence in their integrity, and that was the reason that was done.

Attorney General McGrath. May I say to you that the record of the Federal Bureau of Investigation and the Department with respect to prosecution of all those against whom sufficient evidence has been secured is a splendid one, but

this is not the time to discuss that undertaking. There are facts built up from day to day that this committee is not aware of as a whole, and it may be before you conclude the work of this committee I should like to come back and review with you everything that has been done in this field by the Department of Justice, because I think it is a splendid record. That record is so good that if any member of the United States Senate thinks there are a lot of spies running around the United States, if he will tell us their names and a little information, we will soon bring them to justice.

Senator Tydings. Thank you.

Senator McMahon?

Senator McMahon. When was the loyalty program commenced, Mr. Hoover?

Mr. Hoover. In 1947, I think.

Senator McMahon. And under it all of the 2,000,000 employees of the Government have been checked?

Mr. Hoover. About 2,100,000 now, I think. That is, all of them have had a name check against the files of the Bureau. Of course they have not been investigated except in disloyal cases.

Senator McMahon. Can you tell us by whom this loyalty program was initiated?

Mr. Hoover. Originally the President named a committee, headed by Mr. Vanech, Assistant Attorney General of the

Department of Justice, and upon that committee was Secretary of the Navy Sullivan and Under Secretary of the Treasury Foley and representatives of various other branches of the Government, who conferred at great length and made recommendations to the President as to the procedures to be followed in this particular program. Then there was a consultation with the appropriate committees of the House for the granting of the appropriations on it.

Senator McMahon. I remember there was about a four months' delay before the money was appropriated after the program was formulated, if I am not mistaken.

Mr. Hoover. I think that is correct. The committees of the Congress gave it very careful study before the money was appropriated. I appeared before several of them on the House side.

Senator McMahon. Mr. Attorney General, you have just stated you do not consider it appropriate at this time to give us a review of the Department's work. I shall defer to your opinion as to its suitability at this time. It does seem to me, however, that since it is in this committee that charges have been made which have tended to shake confidence in the diligence of the Government's pursuit of wrongdoers, that it would be proper for you to briefly review some of the activities of the Department. I have in mind the eleven Communists in New York; I have in mind the successful

prosecution of Alger Hiss; I have further in mind the prosecution of Mr. Bridges. I do not know whether that case is successfully concluded. And also of those persons who were in contempt of the committees of Congress for refusing to answer questions concerning their Communistic affiliations.

I do not wish to press you on it, but those thoughts do occur to me, and it did seem appropriate to me that this was a place and a time in which proper reference to them could be made. However, if you feel that you wish to come back again, I do not press it.

Senator Hickenlooper. Mr. Chairman, I might say for the benefit of the Attorney General that there are a number of questions collateral perhaps to his statement today that I would like to discuss with him. I refrained from asking those questions because his statement was confined to a certain limited area, and if the matter is to be opened up I merely wanted to say that I would have a great many questions to ask.

Attorney General McGrath. Senator Hickenlooper, that is exactly what I meant when I said I didn't think that it was appropriate today. We are here to discuss one question, the question of these files. But there is a very splendid story that ought to be known, because I think it would give confidence to the members of Congress, I think it would give confidence to the public at large.

I may say that there is no instance in which the Federal

Bureau of Investigation has completed a report involving disloyalty or subversiveness and referred it to the Attorney General where court action has not been instituted. And you may add to those you suggested that it was Mr. Hoover's organization that got the leads which resulted in the capture and arrest and conviction of Mr. Fuchs. Today we were successful in the prosecution of the Dennis case. We have a splendid record, and I think the country is entitled to know it, but I do not believe that while we are here to discuss this question of records that I ought to impose on the committee to talk about these matters, and I would like to come back at some future time and talk to the committee about what has been accomplished and to answer any questions that Senator Hickenlooper may have with respect to these matters.

Senator Tydings. Senator Lodge, have you some questions?

Senator Lodge. Yes. There is one point that I think ought to be definitely elucidated for the record. Let me say I think you made a very convincing exposition of your reasons for not setting a precedent, and for what you describe as a matter of principle. I think I heard you say that these raw files had not been made available to anybody. I think I am quoting you correctly.

Mr. Hoover. That is correct.

Senator Lodge. That prompts me to ask the question. Has the raw file not been made available to the courts in certain

cases?

Mr. Hoover. There has been one instance ~~of~~ last year where certain very limited portions of the raw file were made available to the Court in the Coplon case. ~~That was~~ certain Reports were sealed for examination by the Judge in the last trial in New York City ~~of~~ in the Gubichev and Coplon case. In the trial in the District of Columbia there was introduced into that trial certain copies of Reports that had been forwarded to the Department of Justice, and abstracts had been made ~~of it~~ from them by Judith Coplon, and were found in her possession at the time we arrested her in New York City.

That again showed the evil of making certain portions of that available to the Court, because in those files, just one or two reports taken out of a file of maybe 5,000 reports, there were mentioned the names of certain individuals. The President of a New England University was mentioned, and there were other very prominent people mentioned, upon whom there was cast an aspersion of subversive activities which had never been established or verified ~~or carried out~~ by the FBI, because we were not investigating that particular subject. Those reports were introduced in the court at the direct ruling of the Judge who presided, Judge Reeves in that case, and it was over the objection of the Attorney General and the Department of Justice representatives. That is the only case I know of.

Senator Lodge. The Attorney General did not make the raw file available?

Mr. Hoover. He did not make the whole file available. He made available only the ~~files~~ Reports made she ~~had~~ reference to in the trips in the District of Columbia. In the New York case there was made available for the Judge that ~~file~~ Reports, as you know, and sealed for the Judge, for the examination of certain information obtained by wire tapping, in order that the Judge might determine whether that evidence had been used on which the case was predicated. The Judge ruled it had not been.

Senator Lodge. Did you approve of those two instances?

Mr. Hoover. I did not.

Attorney General McGrath. May I say that the decision in the Coplon case had to be made by the Attorney General as to either producing those files or dismissing the case against her and against Mr. Hoover's recommendation, the Attorney General who is to proceed with the case made information from the file available under such restrictions as we could secure from the court.

Senator Lodge. I it true that when those files were made available they were made available for public disclosure?

Mr. Hoover. The portions of it that were made available in New York City were sealed. The Judge- Judge Ryan I think presided in this case--those reports were sealed and he examined them in chambers. He did have some discussion, I think,

with both the prosecuting United States Attorney and defense counsel. They were not made available in open court. The particular portions were sealed for the examination of the Court.

Senator Lodge. Were not parts of the raw file put in in the Washington trial?

Mr. Hoover. There were portions of the raw material that had been used in the Washington trial that were printed in the papers. On the excerpts that were made, the Court ruled that that whole portion of the report that she had abstracted had to be introduced for the information of the Court.

Senator Lodge. That was the only part that was available?

Mr. Hoover. The raw file in that case I think ran to ten or twelve thousand pages, and all that was produced was twelve or fourteen hundred pages, to my recollection.

Senator Tydings. If you will allow me to pursue one or two questions, in your prepared remarks, on page 2, I see this sentence in the middle of the second paragraph: "A file is maintained in each case because the FBI has received information allegations, or a complaint which if proven comes within the sphere of our responsibility, in pursuance of either Congressional or Executive Directives." Then this: "After the investigation is completed, when indicated by Department procedure or judgment, a summary of the facts developed is furnished to the Department of Justice and to United States

Attorneys." In other words, I imagine when you think you have completed a file and have made out a case that violates any of the laws of our country, that file is then sent by you automatically to the Attorney General or the United States Attorneys, wherever the jurisdiction may lie, for proper action by the courts.

Mr. Hoover. Not the raw file. There is what is called a summary report, and from the raw file there will be withheld from that report the sources and other confidential information that we do not desire to disclose.

Senator Tydings. I did not mean to say the raw file. What I meant to say, you say "We have completed the case; the evidence is there, and we send the summary for you to work with."

Mr. Hoover. That is correct.

Senator Tydings. You do not need to answer this unless you want to, but I can see no harm in it. I would assume that if you have not sent a file forward in any particular case, it would be for the reason that the case itself does not show such a conclusive state that you could forward it to the proper agencies for legal action.

Mr. Hoover. That would be, I would say, Senator, in about 98 or 99 percent correct; for this reason I reserve the two percent. There are cases which we bring to conclusion in which we may have direct evidence of a violation of law,

but for purposes of carrying on a so-called bringing into the ring it is not forwarded at that time. I recall the days of the Duquesne case at the beginning of the last World War in New York City, where we had one or two men at the very beginning that we were certain had violated the espionage statutes. We held that case back for eighteen months. When we went to trial we had thirty-three defendants, all of whom were convicted.

Senator Tydings. So that, except for the exception that you first enumerated, in each case where you feel you have gathered sufficient evidence you forward it then to the proper legal authorities for such action as is necessary.

Mr. Hoover. That is correct, Senator.

Senator Tydings. And there would be no completed case in your files showing a breach of any of the government's laws except for the reason you have given, that you would withhold it.

Mr. Hoover. That would be correct.

Senator Tydings. Thank you very much, Mr. Hoover.

Senator McMahon. There is one additional question I would like to ask.

Mr. Hoover, on the first page of your statement you say, at the bottom, "The question of opening the files of the FBI involves a grave matter of principle. In taking the position that the files of the FBI should remain inviolate, I

would not, of course, presume to discuss files other than those of the Federal Bureau of Investigation."

I assume that your feeling, however, would go to the files of other government departments that contain your reports?

Mr. Hoover. We have a very definite understanding with the other governmental agencies that no reports of the FBI which are sent to them, whether it be loyalty reports or reports on security of the War, Navy, Interior or Treasury, can be released by that agency upon request from any source without first clearing with the Federal Bureau of Investigation, and if there is any question in my mind as to the propriety of it, I submit it to the Attorney General.

Senator McMahon. That clears that up.

Senator Hickenlooper. Just one question that occurred to me that I do not think I quite followed up. I would like to ask Mr. Hoover this question. We were discussing the case of the Judiciary Committee of the Senate receiving summaries on Federal judges. Are you aware of any other instances where summaries developed by the FBI have been turned over to other committees of Congress?

Mr. Hoover. In the Atomic Energy cases that has been done by reason of the very unusual, and I think very satisfactory, procedure which we worked out for having a Joint Committee of Congress, created under ~~the law of~~ by Congress, having very

definite responsibility for the checking of the activities of the Atomic Energy Commission. In that instance the Attorney General approved the requests that were made for making available to the Joint Committee on Atomic Energy the summary reports in some of those cases. In each instance, however, they inquire of the Bureau as to whether there is any reason why this report should not be released at that particular time. There may be a current investigation going on, in which event we would not want it released.

Senator Hickenlooper. In those cases it is my understanding in connection with the Atomic Energy Commission that the FBI claims no supervision or dominion over any files once the file that is in the Atomic Energy Commission has actually gone into the custody of the Atomic Energy Commission.

Mr. Hoover. We do not claim high priority or interest in the file. We do claim a right to ~~have it cleared with us~~ be advised if any portion of the file which they have received from the Federal Bureau of Investigation is to be made available.

Senator Hickenlooper. I see.

Do you know of any other committee of Congress which has been given access to summary files developed by the Federal Bureau of Investigation other than the Atomic Energy Commission?

Mr. Hoover. I think in the case of the Committee on

Expenditures last year or the year before, headed by Senator Ferguson, there were certain ~~summary~~ files made available to that committee at the direction of the Attorney General in connection with the Kansas City election fraud causes. That is the only other instance I can recall that any files were made available. They have not been made available to the Appropriations Committees of either House of Congress.

Senator Hickenlooper. Or any other committee of the House or Senate?

Mr. Hoover. So far as my knowledge goes, no.

Senator Hickenlooper. That you know of.

Senator Tydings. I would like to thank you, General McGrath, and you, Mr. J. Edgar Hoover, both for coming up before us at our invitation and conferring on the matter before us.

In the event the Chairman may be absent for several days this week, I have designated Senator Green to act as Chairman so as not to delay the work of the committee.

(Whereupon, at 5:10 o'clock p.m. a recess was taken until 10:30 o'clock a.m. of the following day, Tuesday, March 28, 1950.)

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