

June 19, 1951

Mrs. Eleanor Roosevelt
c/o Park Sheraton Hotel
Seventh Avenue and 55th Street
New York, N.Y.

Dear Mrs. Roosevelt:

My attention has just been called to the publication of a letter to you from the Honorable John J. McCloy, dated March 12, 1951. This letter, or extracts from it, has been printed in the May issue of the Information Bulletin, published by the Office of the United States High Commissioner for Germany. Mr. McCloy's letter appears to have been written in reply to a letter from you of February 15, 1951, and was released with your permission. The letter concerns Mr. McCloy's recent action granting extensive clemency in the cases of various war criminals then or now confined at Landsberg Prison in Bavaria. All these criminals were confined pursuant to judgments rendered at the Nuremberg trials in which I served as Chief Counsel and was, therefore, responsible for their indictment and prosecution.

I have the highest respect for Mr. McCloy's integrity and good intentions. I would not now prolong the debate about the wisdom of his clemency action, were it not for the fact that his letter to you contains numerous inaccuracies, which are extremely damaging to the Nuremberg proceedings, to the judges who sat at the trials, to General Clay, and, incidentally, to me.

Several of these misstatements are so serious that they should not be allowed to stand uncorrected. Mr. McCloy states that at the outset of his letter to you "I inherited these cases from General Clay, who, for one reason or another had been unable to dispose of them finally". This statement is 87-1/2% incorrect. There were twelve trials conducted at Nuremberg under the authority of the Allied Control Council and the Office of Military Government. The judgments pronounced at Nuremberg were to be final, but the sentences were subject to reduction at the discretion of the Military Governor. In eleven of the twelve cases, General Clay exercised his responsibilities, and reviewed the sentences prior to his resignation as Military Governor. In one case, in which the judgment was not rendered until a few months before General Clay's

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departure, he was unable to take action in the time remaining. This case and only this one case was not "disposed of finally" at the time Mr. McCloy took office.

The implication that General Clay "for one reason or another" failed to discharge his responsibilities and left an accumulated burden for Mr. McCloy is, therefore, unfounded. Nor was General Clay's review of the sentences in the eleven cases in which he acted in any way perfunctory. General Clay was assisted by a very able legal staff, headed by such men as Judge J. Warren Madden, Alvin Brockwell, and Colonel John Raymond, now Deputy Legal Advisor to the Department of State. To my personal knowledge, this legal staff gave extensive and careful consideration to the records and judgments in the Nuremberg trials, and General Clay gave conscientious and perceptive personal attention to their recommendations before he took action.

Mr. McCloy's statements about the Krupp case likewise display a lamentable lack of attention to fact. Far from occupying "a somewhat junior position" in the Krupp company, as Mr. McCloy states, Alfried Krupp emerged as the dominant figure in the early forties when his father Gustav's health began to fail, and in 1944, Alfried became the sole owner and proprietor of the Krupp enterprises by virtue of a special decree, signed by Adolf Hitler and known as the "Lex Krupp". To be sure, it was Gustav rather than Alfried "who helped finance Hitler", but Alfried was not convicted on this charge, but for his responsibility in despoiling the industries of the countries occupied by Germany and participating in and profiting by the extensive and terrible slave labor program of the Third Reich. These crimes were committed when Gustav Krupp was already incompetent or bordering on incompetency, and when Alfried Krupp and his fellow directors were the responsible directing force of the Krupp works.

In stating that "his father was on his deathbed when these trials took place and this Alfried Krupp was the next in line", Mr. McCloy clearly infers that Alfried Krupp was called upon to answer for his father's sins. I was directly responsible for, and personally signed, the indictment of Alfried Krupp, and I must vigorously repel the implication that Alfried Krupp was indicted merely because his father was incompetent. Alfried Krupp was indicted, along with eleven other high officials of the Krupp works, for crimes which were directly traceable to their personal responsibility and participation. One of the twelve accused was acquitted. The court was unanimous in imposing a twelve-year sentence on Alfried Krupp; there was division of opinion within the court about the length of the sentences to be imposed on

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several of the other defendants. The court was composed of respected and experienced professional judges from the appellate benches of Connecticut, Tennessee and Washington. For Mr. McCloy to suggest that these men convicted Alfred Krupp, or that I indicted him, because of "the effect of a name" or because "this Krupp was the next in line" is a most unwarranted and damaging statement, and one which will unavoidably tend to undermine the integrity of the Nuremberg proceedings.

Lest this letter run to undue lengths, I will pass over numerous other misstatements in Mr. McCloy's letter to you. One additional point should be made, however, concerning Mr. McCloy's handling of this entire matter. Through the Clemency Board which he appointed, and through his own action, Mr. McCloy has, in effect, made a personal review of (in his language) "possible errors of law or fact" in the Nuremberg judgments. He made this review on the basis of a totally one-sided presentation of the law and the facts. The letter of transmittal from the Clemency Board to Mr. McCloy, dated August 23, 1950, states that the Board read the judgments in all twelve cases (but apparently not the records), and heard fifty lawyers representing the criminals confined at Landsberg Prison. No representative of the prosecution was heard, or invited to appear, before either the Clemency Board or Mr. McCloy.

That this was an extraordinary and unprecedented manner of handling what amounts to an appellate proceeding goes without saying. Even in a clemency proceeding before the governor of any of our states, the views of the District Attorney and of the judge who tried the case are invariably obtained and considered. None of these elementary and established practices was observed by Mr. McCloy.

Inasmuch as Mr. McCloy's letter to you has been made public with your permission, I would like to have the same permission with respect to this letter.

With kindest personal regards,

Sincerely yours,

TT/sg

Telford Taylor