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5/17/54

McCARTHY HEARINGS -
x Privacy of Personal Advice

At the Legislative Conference of May 17, 1954, the President brought up the matter of the McCarthy hearings. He recalled his efforts to "stay out of this damn business on the Hill", but the demands for testimony from and about his immediate assistants had caused him to write a letter defining what he believed could or could not be subject to testimony. He said he was attaching to the letter a long historical recital by the Attorney General so that the President's views would be better understood. After noting the great pressures he had experienced for getting into the fray, he emphasized that his letter did not touch upon the matter of subpoenas but concentrated on the proposition that personal advice constitutes confidential and privileged material which cannot properly be brought into testimony. He hoped that no one would view the statement as an act by the Administration to stir up needlessly a struggle between the Executive and Legislative branches. Of course, there were always present some elements of struggle between the two, but the President thought it a virtue that such rivalry existed so long as respect and mutual confidence were maintained.

In the brief discussion that followed, several of the leaders pointed to the desirability of not bringing into question the power of Congress to subpoena members of the Executive Branch. ThePresident saw a distinction between replying to a subpoena and giving sworn testimony. As for members of his staff, the President stated that they have no political existence apart from himself and no legislative responsibility such as that assigned in some cases by Congress directly to Department heads.

The matter was raised again later in the meeting when it was suggested that controversy over the President's letter could be held to a minimum by keeping the emphasis on the peculiar position occupied by Presidential assistants. The President thoroughly agreed and compared this position to that of staff officers in any military organization, and whose duties consisted of advising and counseling, not deciding affairs. He went on to restate how he had gone to the utmost lengths to be cooperative and to avoid creating crises in Executive-Legislative relations -- and all this "despite terrific needling".

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