

Small Business Week, 1973

Proclamation 4195. March 12, 1973

*By the President of the United States of America
a Proclamation*

In no facet of our national life is the American genius for independence, innovation and self-improvement better displayed than in the small business community.

The instinct to create, sustain and expand an independent enterprise is as old as America herself—an impulse that brought the earliest settlers to our shores and motivated generation after generation of our citizens in their onward, upward march. Nowhere is it more clearly evident today than among our Nation's 8 million small businesses.

In the past year alone, more than 70 thousand new companies were started. Nineteen out of every twenty firms are considered small business, and they provide approximately 35 million jobs, and contribute more than \$420 billion to the gross national product.

They also provide a ladder of opportunity to hard working, ambitious Americans of all races and creeds—the chance to harness individual initiative and ability to the mighty potentials of the free enterprise system. As long as America remains true to her heritage, the small businessman will continue as a mainstay of our economy and our society.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby designate the week beginning May 13, 1973, as Small Business Week. I ask all Americans to share with me during this week a deep pride in the many accomplishments of our Nation's small businessmen and women, and in the invaluable contribution they have made to our free way of life.

IN WITNESS WHEREOF, I have hereunto set my hand this 12th day of March, in the year of our Lord nineteen hundred seventy-three, and of the Independence of the United States of America the one hundred ninety-seventh.

RICHARD NIXON

[Filed with the Office of the Federal Register, 2:57 p.m.,
March 12, 1973]

Executive Privilege

Statement by the President. March 12, 1973

During my press conference of January 31, 1973, I stated that I would issue a statement outlining my views on executive privilege.

The doctrine of executive privilege is well established. It was first invoked by President Washington, and it has been recognized and utilized by our Presidents for almost 200 years since that time. The doctrine is rooted in the Constitution, which vests "the Executive Power" solely in the President, and it is designed to protect communications within the executive branch in a variety of circumstances in time of both war and peace. Without such protection, our military security, our relations with other countries, our law enforcement procedures, and many other aspects of the national interest could be significantly damaged and the decisionmaking process of the executive branch could be impaired.

The general policy of this Administration regarding the use of executive privilege during the next 4 years will be the same as the one we have followed during the past 4 years and which I outlined in my press conference: Executive privilege will not be used as a shield to prevent embarrassing information from being made available but will be exercised only in those particular instances in which disclosure would harm the public interest.

I first enunciated this policy in a memorandum of March 24, 1969, which I sent to Cabinet officers and heads of agencies. The memorandum read in part:

"The policy of this Administration is to comply to the fullest extent possible with Congressional requests for information. While the Executive branch has the responsibility of withholding certain information the disclosure of which would be incompatible with the public interest, this Administration will invoke this authority only in the most compelling circumstances and after a rigorous inquiry into the actual need for its exercise. For those reasons Executive privilege will not be used without specific Presidential approval."

In recent weeks, questions have been raised about the availability of officials in the executive branch to present testimony before committees of the Congress. As my 1969 memorandum dealt primarily with guidelines for providing information to the Congress and did not focus specifically on appearances by officers of the executive branch and members of the President's personal staff, it would be useful to outline my policies concerning the latter question.

During the first 4 years of my Presidency, hundreds of Administration officials spent thousands of hours freely testifying before committees of the Congress. Secretary of Defense Laird, for instance, made 86 separate appearances before Congressional committees, engaging in over 327 hours of testimony. By contrast, there were only three occasions during the first term of my Administration when executive privilege was invoked anywhere in the executive branch in response to a Congressional request for information. These facts speak not of a closed Administration but of one that is pledged to openness and is proud to stand on its record.

Requests for Congressional appearances by members of the President's personal staff present a different situation and raise different considerations. Such requests have been relatively infrequent through the years, and in past administrations they have been routinely declined. I have followed that same tradition in my Administration, and I intend to continue it during the remainder of my term.

Under the doctrine of separation of powers, the manner in which the President personally exercises his assigned executive powers is not subject to questioning by another branch of Government. If the President is not subject to such questioning, it is equally appropriate that members of his staff not be so questioned, for their roles are in effect an extension of the Presidency.

This tradition rests on more than Constitutional doctrine: It is also a practical necessity. To insure the effective discharge of the executive responsibility, a President must be able to place absolute confidence in the advice and assistance offered by the members of his staff. And in the performance of their duties for the President, those staff members must not be inhibited by the possibility that their advice and assistance will ever become a matter of public debate, either during their tenure in Government or at a later date. Otherwise, the candor with which advice is rendered and the quality of such assistance will inevitably be compromised and weakened. What is at stake, therefore, is not simply a question of confidentiality but the integrity of the decisionmaking process at the very highest levels of our Government.

The considerations I have just outlined have been and must be recognized in other fields, in and out of government. A law clerk, for instance, is not subject to interrogation about the factors or discussions that preceded a decision of the judge.

For these reasons, just as I shall not invoke executive privilege lightly, I shall also look to the Congress to continue this proper tradition in asking for executive branch testimony only from the officers properly constituted to provide the information sought, and only when the eliciting of such testimony will serve a genuine legislative purpose.

As I stated in my press conference on January 31, the question of whether circumstances warrant the exercise of executive privilege should be determined on a case-by-case basis. In making such decisions, I shall rely on the following guidelines:

1. In the case of a department or agency, every official shall comply with a reasonable request for an appearance before the Congress, provided that the performance of the duties of his office will not be seriously impaired thereby. If the official believes that a Congressional request for a particular document or for testimony on a particular point raises a substantial question as to the need for invoking executive privilege, he shall comply with the procedures set forth in my memorandum of March 24, 1969.

Thus, executive privilege will not be invoked until the compelling need for its exercise has been clearly demonstrated and the request has been approved first by the Attorney General and then by the President.

2. A Cabinet officer or any other Government official who also holds a position as a member of the President's personal staff shall comply with any reasonable request to testify in his non-White House capacity, provided that the performance of his duties will not be seriously impaired thereby. If the official believes that the request raises a substantial question as to the need for invoking executive privilege, he shall comply with the procedures set forth in my memorandum of March 24, 1969.

3. A member or former member of the President's personal staff normally shall follow the well-established precedent and decline a request for a formal appearance before a committee of the Congress. At the same time, it will continue to be my policy to provide all necessary and relevant information through informal contacts between my present staff and committees of the Congress in ways which preserve intact the Constitutional separation of the branches.

NOTE: The text of the memorandum to which the statement refers was also made available by the White House Press Office, as follows:

March 24, 1969

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

SUBJECT: ESTABLISHING A PROCEDURE TO GOVERN COMPLIANCE WITH CONGRESSIONAL DEMANDS FOR INFORMATION

The policy of this Administration is to comply to the fullest extent possible with Congressional requests for information. While the Executive branch has the responsibility of withholding certain information the disclosure of which would be incompatible with the public interest, this Administration will invoke this authority only in the most compelling circumstances and after a rigorous inquiry into the actual need for its exercise. For those reasons Executive privilege will not be used without specific Presidential approval. The following procedural steps will govern the invocation of Executive privilege:

1. If the head of an Executive department or agency (hereafter referred to as "department head") believes that compliance with a request for information from a Congressional agency addressed to his department or agency raises a substantial question as to the need for invoking Executive privilege, he should consult the Attorney General through the Office of Legal Counsel of the Department of Justice.

2. If the department head and the Attorney General agree, in accordance with the policy set forth above, that Executive privilege shall not be invoked in the circumstances, the information shall be released to the inquiring Congressional agency.

3. If the department head and the Attorney General agree that the circumstances justify the invocation of Executive privilege, or if either of them believes that the issue should be submitted to the President, the matter shall be transmitted to the Counsel to the President, who will advise the department head of the President's decision.

4. In the event of a Presidential decision to invoke Executive privilege, the department head should advise the Congressional agency that the claim of Executive privilege is being made with the specific approval of the President.

5. Pending a final determination of the matter, the department head should request the Congressional agency to hold its demand for the information in abeyance until such determination can be

made. Care shall be taken to indicate that the purpose of this request is to protect the privilege pending the determination, and that the request does not constitute a claim of privilege.

RICHARD NIXON

On March 14, 1973, the White House Press Office made available the text of a letter from John W. Dean III, Counsel to the President, to Senator James O. Eastland, Chairman of the Committee on the Judiciary, as follows:

March 14, 1973

Dear Mr. Chairman:

I am writing to acknowledge receipt of your letter of March 13, 1973, and the enclosed invitation to appear and testify before the Senate Committee on Judiciary on matters relating to the qualifications of L. Patrick Gray, III to be Director of the FBI. As a member of the personal staff of the President, and consistent with the President's statement of March 12, 1973, on Executive Privilege, I must respectfully decline the invitation of the Committee to formally appear and testify.

However, as the President has stated, it is the policy of this Administration to provide all necessary and relevant information to the Congress and that members of the President's personal staff will provide such information in a manner that preserves intact the Constitutional separation of the branches. Accordingly, if the Senate Committee on Judiciary believes that I can be of assistance in providing relevant information and wishes to submit questions to me that have a bearing on the nomination of Mr. Gray, I will be pleased to respond consistent with the President's statement.

Respectfully yours,

JOHN W. DEAN, III
Counsel to the President.

[Honorable James O. Eastland, Chairman, Committee on the Judiciary, United States Senate, Washington, D.C. 20510]

Disaster Assistance for Texas

Announcement of Disaster Declaration and Authorization of Federal Assistance Following Tornadoes, High Winds, and Flooding. March 12, 1973

The President today announced a major disaster declaration for the State of Texas as a result of tornadoes, high winds, and flooding, occurring on March 10, which caused extensive and widespread damage to public and private property. The President's action will permit the use of Federal funds in relief and recovery efforts.

The President's declaration followed a request for Federal assistance by Gov. Dolph Briscoe of Texas. Preliminary surveys indicated 5 dead and at least 140 persons injured due to the tornadoes. More than 150 homes were destroyed or seriously damaged to a point where temporary housing arrangements are needed. The junior high school in Burnet was reported 90 percent destroyed, and other public facilities suffered extensive damage.

Federal help from the President's Disaster Relief Fund will consist primarily of debris clearance and the repair or restoration of damaged or destroyed public facilities. The major disaster declaration also will permit the Fed-

eral Government to provide temporary housing accommodations for families whose homes were destroyed or seriously damaged. It will also trigger low-interest rate disaster loan service by the Small Business Administration.

Federal relief activities in Texas will be coordinated by the President's Office of Emergency Preparedness. Disaster assistance specialists from OEP's Region 6 (Dallas) office are in the disaster stricken area working under George E. Hastings, Regional Director. Mr. Hastings will be designated as the Federal Coordinating Officer to work with the State in providing Federal disaster assistance under Public Law 91-606.

Department of Health, Education, and Welfare

Announcement of Intention To Nominate Dr. Charles C. Edwards To Be Assistant Secretary for Health. March 13, 1973

The President today announced his intention to nominate Dr. Charles C. Edwards, of Bethesda, Md., to be Assistant Secretary for Health in the Department of Health, Education, and Welfare. He succeeds Dr. Merlin K. DuVal who was Assistant Secretary for Health from June 22, 1971, until December 15, 1972.

Dr. Edwards has been Commissioner of Food and Drugs since December 1, 1969. Prior to joining the Department of Health, Education, and Welfare to head the Food and Drug Administration, Dr. Edwards was vice president and managing officer, health and medical division, in the firm of Booz, Allen and Hamilton, Inc., in Chicago, Ill.

He was director, division of socioeconomic activities, American Medical Association from 1963 to 1967 and was the AMA's assistant director for medical education and hospitals in 1962 and 1963. Dr. Edwards spent 5 years in the private practice of surgery from 1956 to 1961 and served as a consultant to the Surgeon General of the United States during 1961-62.

Dr. Edwards held a surgical fellowship at the Mayo Foundation from 1950 to 1956, a teaching fellowship at the University of Minnesota during 1949-50 and interned at St. Mary's Hospital in Minneapolis, Minn., during 1948-49.

He was born in Overton, Nebr., on September 16, 1923. Dr. Edwards attended public schools in Kearney, Nebr., and Princeton University in 1941 and 1942. He received his B.A. (1945) and M.D. (1948) degrees from the University of Colorado and in 1956 received his