

November 12, 1953

TRUMAN LETTER

Dear Sir:

I have your subpoena dated November 9, 1953, directing my appearance before your committee on Friday, November 13, in Washington. The subpoena does not state the matters upon which you seek my testimony, but I assume from the press stories that you seek to examine me with respect to matters which occurred during my tenure of the Presidency of the United States.

In spite of my personal willingness to cooperate with your committee, I feel constrained by my duty to the people of the United States to decline to comply with the subpoena.

In doing so, I am carrying out the provisions of the Constitution of the United States; and am following a long line of precedents, commencing with George Washington himself in 1796. Since his day, Presidents Jefferson, Monroe, Jackson, Tyler, Polk, Fillmore, Buchanan, Lincoln, Grant, Hayes, Cleveland, Theodore Roosevelt, Coolidge, Hoover and Franklin D. Roosevelt have declined to respond to subpoenas or demands for information of various kinds by Congress.

The underlying reason for this clearly established and universally recognized constitutional doctrine has been succinctly set forth by Charles Warren, one of our leading constitutional authorities, as follows:

"In this long series of contests by the Executive to maintain his constitutional integrity, one sees a legitimate conclusion from our theory of government. ***Under our Constitution, each branch of the Government is designed to be a coordinate representative of the will of the people. ***Defense by the Executive of his constitutional powers becomes in very truth, therefore, defense of popular rights--defense of power which the people granted to him.

"It was in that sense that President Cleveland spoke of his duty to the people not to relinquish any of the powers of his great

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office. It was in that sense that President Buchanan stated the people have rights and prerogatives in the execution of his office by the President which every President is under a duty to see 'shall never be violated in his person' but 'passed to his successors unimpaired by the adoption of a dangerous precedent.' In maintaining his rights against a trespassing Congress, the President defends not himself, but popular government; he represents not himself but the people."

President Jackson repelled an attempt by the Congress to breakdown the separation of powers in these words:

"For myself I shall repel all such attempts as an invasion of the principles of justice as well as the Constitution, and I shall esteem it my sacred duty to the people of the United States to resist them as I would the establishment of a Spanish Inquisition."

I might commend to your reading the opinion of one of the committees of the House of Representatives in 1879, House Report 141 March 3, 1879, Forty-fifth Congress, Third Session, in which the House Judiciary Committee said the following:

"The Executive is an independent of either house of Congress as either house of Congress is independent of him, and they cannot call for the records of his actions, or the action of his officers against his consent, any more than he can call for any of the journals or records of the House or Senate."

It must be obvious to you that if the doctrine of separation of powers and the independence of the Presidency is to have any validity at all, it must be equally applicable to a President after his term of office has expired when he is sought to be examined with respect to any acts occurring while he is President.

The doctrine would be shattered, and the President, contrary to our fundamental theory of constitutional government, would become a mere arm of the Legislative Branch of the Government if he would feel during his term of office that his every act might be subject to official inquiry and possible distortion for political purposes.

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If your intention, however, is to inquire into any acts as a private individual either before or after my Presidency and unrelated to any acts as President, I shall be happy to appear.

Yours Very Truly,

HARRY S. TRUMAN

Honorable Harold H. Velde
Chairman
Committee on Un-American Activities
House of Representatives
Washington, D. C.