

[Letter from Robert S. McNamara, Secretary, United States Department of Defense, to John C. Stennis, Chairman, Special Purpose Subcomm. of the S. Comm. on Armed Services (Feb. 1, 1962), reprinted in Military Cold War Education and Speech Review Policies: Hearings before the Special Preparedness Subcomm. of the S. Comm. on Armed Services (Part 2), 87th Cong. 369-70 (1962).]

DEAR MR. CHAIRMAN: At the Subcommittee hearing yesterday, Mr. Willis Lawrence declined, on my instructions, to answer a question put to him by Senator Thurmond as to the name of the individual within the Department who had reviewed a particular speech.

When Mr. Lawrence based his refusal on my instructions, you raised the question as to whether or not the doctrine of Executive Privilege was being invoked.

In instructing Mr. Lawrence as I did I was not motivated by any desire to invoke a constitutional principle. My reasons were based simply upon my firm conviction that this refusal would in no way inhibit the investigation of your Subcommittee but was at the same time absolutely essential to maintain sound [*370] principles of management of an Executive Department by not thrusting upon subordinate officials burdens which are properly chargeable to me and my senior associates. As I stated in my memorandum, I do not believe that it is appropriate that specific individuals shall be charged with responsibility for specific deletions from speeches and articles when those individuals are acting under policies for which my senior associates and I must assume responsibility.

Consideration of the kind just set forth must, of course, in all instances be viewed against the proper needs of Congress to know the facts relevant to its inquiries. In the investigation of your Subcommittee we have endeavored to give you the fullest cooperation in providing all relevant data.

We have made available to the Committee the 1,500 speeches which were requested. We have responded fully to all the numerous requests of the Committee for additional materials. We have furnished the names of the 14 individual reviewers, 11 of whom were military officers, together with background information about them. We have made available both in Washington and in the field all witnesses requested for examinations by the members of the Committee Staff and permitted all such witnesses to be examined outside the presence of any departmental representative. We will continue to extend to the Committee maximum cooperation.

I do not, at this time, perceive the reasons which underlie the request to identify particular reviewers with particular speeches or why such an identification would in any measure promote the purpose of the inquiry. The only reason which has so far been suggested is that this would aid in the determination of whether or not changes in speeches were the result of individual opinion or of existing policies. Verbatim copies of all speeches, showing the deletions made and the comments thereon have been made available to the Committee. Where the reasons for the changes have been noted we have made those reasons available to the Committee. The Committee also has the policy guidelines and will have ample testimony in explanation of those guidelines. It may be that it will be the Committee's judgment that the changes made in some instances were not a correct application of the policies. If so, that is my responsibility and I

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accept it fully. I do not see how finding that a particular military officer in a particular case exercised a mistaken judgment would advance the purposes of the inquiry.

I have endeavored to think of other reasons why the names should be important to the inquiry. I am confident that no consideration of a security nature with respect to any of the reviewers will be raised, but should any such questions be raised I would be happy to discuss the matter in detail with you personally and provide you with all relevant information.

I have been informed by my legal staff, and by the Department of Justice, that the facts and circumstances above would justify, as a matter of law, invocation of the doctrine of Executive Privilege. As you know, this administration has not yet invoked the doctrine and is most loath to do so. It is our intention to make the fullest information possible available to Congress at all times in aid of its legislative purpose. It is our view that impasses between the executive and legislative branches should be avoided by resolving questions of availability of evidence through mutual cooperation with the Committees of Congress. It is in this spirit that our staffs have cooperated in making available the information desired by the Committee.

For these reasons I would be most unhappy to be compelled to invoke formally the Privilege in this inquiry. I shall be most happy to discuss this matter with you any time at your convenience.

Sincerely,

ROBERT S. MCNAMARA