

The Senator from California knows well that one of the great corporations engaged in the production of petroleum in the Middle East, in alliance with others, is now seeking to obtain control of the great oil-shale deposits of the United States. I say, Mr. President, the time has come when Members of Congress would better give heed to the gradual slipping away of the authority of Congress and its absorption by the executive branch of the Government.

THE PRESENT CASE

It may be asked, Why does the Senator from Wyoming raise this question of statutory law and executive law in the present case? This is the reason—and I wish to state this question very clearly and very bluntly: Can a valid claim for executive privilege, that is, the privilege to refuse to disclose what has been done, be based upon an invalid contract? Will anyone say that such a claim can be based upon an invalid contract? No one would say that. My good friend from California, who asked me to yield to him a moment ago so that he could announce that the Republican Members of the Senate are enjoying a luncheon, does not seek to interrupt me now to answer that question.

INVALIDITY OF CONTRACT

A valid claim to executive privilege; that is, to the privilege of denying to the people of the United States the right to know what their Government is doing, cannot be founded upon an invalid contract. Yet that is precisely what the President's nominee for Secretary of Commerce has been doing, certainly throughout his career as head of the Atomic Energy Commission, when there was challenged the contract which he signed, the contract which he helped to negotiate with the officers of two private utility holding companies in order to establish a then nonexistent subsidiary of such holding companies to take over from the Government of the United States a contract to produce electric power and sell it to the people of Memphis, Tenn.

Do I say it was an invalid contract? Do I ask Members of the Senate to shape their votes on the question of confirmation on the basis of my statements? Not at all. Disregard my statements, so far as they are statements urging Senators to act this way or that way. Give them only the weight to be accorded to a colleague's opinion. But in this matter I cite the fact that the Department of Justice is the authority which I am now using. The Department of Justice has filed a pleading which declares that the contract about which Admiral Strauss refused to testify is an invalid contract; and he claims executive privilege to keep his knowledge of what happened within his own breast.

Mr. President, I say again that this contract, about which Admiral Strauss, when he appeared before the Judiciary Committee, refused to give testimony, is a contract which the Department of Justice has denominated an invalid contract in the defense which it filed in the courts against the suit brought by Messrs. Dixon and Yates in the Court of Claims for damages in excess of \$3 million, by reason of the fact that the President ordered the cancellation of the contract by the Atomic Energy Commission.