

So my authority for the statement that there is no executive privilege involved here, as claimed by Mr. Strauss, is based upon these two irrefutable facts:

First that President Dwight D. Eisenhower called upon the Atomic Energy Commission, of which Admiral Strauss was the Chairman, and demanded that the contract be canceled. It was canceled. Second, the Department of Justice filed a pleading in defense, alleging that the contract was invalid.

In order that there may be no doubt about this, I shall read a few extracts from this pleading. This is in the U.S. Court of Claims. It was filed by the Mississippi Valley Generating Co. This was the newly created subsidiary of the Middle South and Southern Holding Cos. which made the offer that the nominee has declared from the beginning to the end to have been a sound and proper contract. Even today, after the cancellation of the contract was ordered, he contends before the Committee on Interstate and Foreign Commerce, as he contended before the Judiciary Committee, that the contract was a valid one. These are the affirmative defenses prepared by the Department of Justice against this suit for damages. I am reading from page 167 of the report of the Committee on the Judiciary:

"The alleged agreement set forth in the petition is in violation of the statutes and laws of the United States and is unlawful, null and void, and contrary to public policy for the following reasons, among others."

I hope that this message from the Department of Justice may be carried to the luncheon of our Republican friends. I am glad to see the Senator from North Dakota [Mr. Langer] in his seat on the floor of the Senate. He was a member of the subcommittee of the Committee on the Judiciary which held the hearings before which the nominee for the Office of Secretary of the Department of Commerce refused to answer the questions of the members of the committee.

Mr. President, send the word to the luncheon hall, wherever it may be, where the Republicans are gathered, that the Department of Justice says that the Dixon-Yates agreement, set forth in the petition, is in violation of the statutes and laws of the United States, and is unlawful, null and void, and contrary to public policy.

Are we, the Members of the Senate, going to confirm the nomination of this nominee to be Secretary of Commerce, a man who insisted upon pushing through to fruition a contract which the Department of Justice says is null and void? They will not answer me now, because they are not here. But when they return, I wonder how many will rise and say, "Certainly, the Senate of the United States should confirm the nomination of a man who forced through a contract which the Department of Justice says is null and void, and should not be given any weight or value in the consideration of the Government of the United States."

They have filled the airways and the newspapers with the false claim that the President ought of right to be able to choose for himself, without the advice and consent of the Senate, any person to be a member of his Cabinet.

Now I will tell the Senate one of the reasons why that is not so.

Mr. MAGNUSON. Mr. President, will the Senator yield?