

Mr. CARROLL. What the Senator from Wyoming has said expresses what the junior Senator from Colorado sought earlier to express. It seems to me the issue is so simple that no Member of the Senate can fail to understand that the real issue involved is not personal. This is not anything against an individual who may become Secretary of Commerce. It is a question of what that individual thinks and what he stand for with respect to the separation of powers.

For example, as the senior Senator from Wyoming has pointed out, the nomination of Mr. Strauss affects the power of Congress as representatives of the people to investigate. This is vital to us. As the Senator from Wyoming has said, if we simply keep whittling away at our powers, if we delegate our powers to the Executive, letting them drift away, we will be appropriating money but not being able to follow through to see how it is spent. This is a matter which is of vital importance.

I do not know Mr. Strauss. I would not know him, to use an old expression, from a ton of coal. I never met him. But I am interested in what he says.

There is a very important point which has not been brought out. Title II of the United States Code, section 192, relates to the refusal of a witness to testify. Most of such witnesses do not know that they can be put in jail. Nevertheless, it is claimed by some that although this obligation applies to private persons, it does not apply to members of the executive branch.

However that may be, Mr. President, there are other ways for the Congress to handle such matters. Such persons can be brought before the bar of the Senate—although that procedure has not been used for some time. But they can be brought before the bar of the Senate; the Senate does not have to have them brought into court.

Mr. President, what we must bear in mind is that today, under an opinion of the Attorney General, the independent commissions and agencies, which Congress itself created, are maintaining that if they act "in their executive capacity"—and, Mr. President, mind you, they are not parts of the executive branch—they do not have to reveal their files to the Congress, the body which created them. That is why the nomination of Admiral Strauss brings before us a basic issue.

As the distinguished Senator from Wyoming has pointed out, a new subcommittee of the Senate Judiciary Committee is looking into this question. Over a period of some years the Congress has been compiling information about this issue, because the Members of Congress are concerned about secrecy in government. Because of that situation, Senator Hennings' Subcommittee on Constitutional Rights of the Judiciary Committee—and I am a member of the subcommittee—has been going into this field. Various congressional committees have been making reports, in regard to this matter, but thus far no congressional action regarding it has been taken.

Mr. President, let me state what has influenced my thinking in regard to the question of confirmation of the nomination of Admiral Strauss. The distinguished Senator from Wyoming [Mr. O'Mahoney] said to Admiral Strauss, "All we ask you to do, when there is fraud"—and I quote the substance of his statement—"or when there is undue interest or conflict of interest is to tell us what the facts are."