

Acheson Defends Executive Privilege

By Murray Marder

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Former Secretary of State Dean Acheson told the Senate yesterday it cannot "pry" into secrets between the President and confidential advisers without causing "useless friction."

It would be "a hell of a way to run a railroad" to make officials appear before Congress with a statement from the President, in order to withhold information on grounds of "executive privilege," said Acheson in discussing pending legislation to that effect.

"In this city of rumors," said Acheson, "the current name of this bill is not that of its sponsors, the Fulbright-Cranston bill, but the Kissinger bill." That was a doubly-barbed reference to charges by Sen. J. W. Fulbright (D-Ark.) that presidential adviser Henry A. Kissinger now rules a "super bureau of foreign affairs," beyond the reach of Congress. If this bill is passed, Ache-

son told a Senate Judiciary Subcommittee on Separation of Powers, headed by Sam J. Ervin Jr. (D-N.C.), it would arouse recollections "of both Robespierre and the late Sen. Joseph McCarthy."

It was vintage Acheson, although he occasionally had to cup an ear to hear the Senators. The assertive, 78-year-old Acheson, who never shrinks from controversy, had no rival foreign policy advisers in the White House during the post-World War II construction of U.S. policy in the Truman years.

But Acheson scoffed at Fulbright's claim that because Kissinger has "140 employees" he should be accountable to Congress. Whether Kissinger has "one employee or 26 or 126," said Acheson, he is still "a personal adviser to the President."

Although Acheson was listened to with great respect, he was rebutted with contentions that things have changed in the years since he was in office.

The President has no "duty," said Acheson, "to tell the people about everything."

"Wasn't intimidated?" If Congress wants some information, he said, it should not "pick out some poor employee" for "bullying." All it need do, said Acheson, is write to the Secretary of State or other Cabinet officer. "My own practice was always to come myself . . . I wasn't intimidated by senators."

When Acheson was told that "the record is replete" with refusals and delays, he replied, at first, "I can't believe it."

"The method that you suggest to get information has not been very fruitful," said Sen. Ervin, gently.

This is "the nub of the difference," said Sen. Charles McC Mathias Jr. (R-Md.) It is "not because Henry Kissinger sits in the White House . . . but because there has been a very real change in the attitude and the day-to-day dealings between the Executive and the Legislature."

There have been "changes on both sides," interjected Acheson.

Court Action Urged

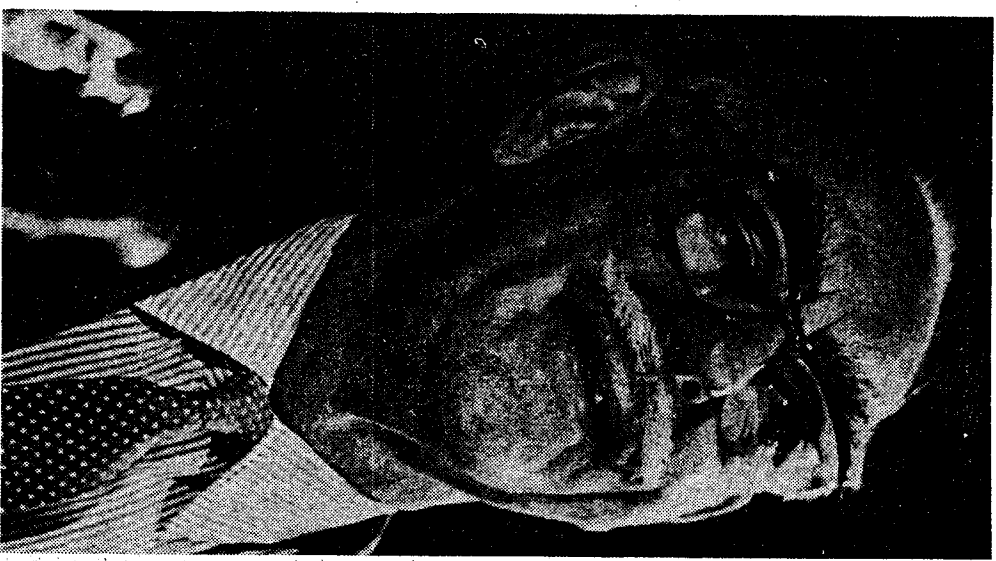
"But the fact is," said Mathias, "that a gulf that did not exist in your time . . . does exist today . . . in detriment to the United States." Acheson countered, "I don't believe this can be cured by law . . . it can be cured only by people."

Congress should press the issue to a conclusion in court, said another witness, Raoul Berger, a senior fellow at Harvard University, author of a basic study on "Executive Privilege vs. Congressional Inquiry."

In April 1957, said Berger, William P. Rogers, then Attorney General and now Secretary of State, raised "extraordinarily unbalanced claims" that the courts have held that the President and department heads have "an uncontrolled discretion to withhold" information.

"No gentlemen's approach . . . is going to settle this," said Berger, and Congress should not be in "the position of a beggar" of information. Agreement that "no court has addressed the precise issue" of "executive privilege" came from Robert F. Keller, U.S. Deputy Comptroller General, who supported the pending bill.

He said that his congressional watchdog agency, the General Accounting Office, has



By Bob Burchette—The Washington Post
Dean Acheson testifying on executive privilege.

has encountered "repeated 1969 order 'to comply to the 'frustrations and delays' in fullest extent possible with carrying out its statutory duty congressional requests for information, despite President Nixon's formation."