

Presidential Appearance as a Character Witness

Apparently there is no precedent for a President to appear as a character witness in a civil, criminal, or other kind of legal proceeding.

July 7, 1938

MEMORANDUM OPINION FOR THE ATTORNEY GENERAL

Reference is made to your note of July 6, 1938, referring to me a letter from Mr. Frederic William Wile in which he requests to be advised whether there is a precedent for a President to appear as a character witness in any civil, criminal, or other kind of legal proceeding.

The famous Aaron Burr trial seems to have established the precedent that the President of the United States is not obliged to honor subpoenas. In that case President Jefferson declined to appear under a subpoena issued by Justice Marshall. Apparently President Monroe, upon the advice of Attorney General Wirt, also declined to honor a subpoena. *See* Homer Cummings & Carl McFarland, *Federal Justice: Chapters in the History of Justice and the Federal Executive* 64 & n.31 (1937). There is also some indication that President John Quincy Adams took the view that he was not obliged to answer a subpoena. *See* 7 *Memoirs of John Quincy Adams* 35 (Charles Francis Adams ed., 1875).

A search of the records of this Department has failed to disclose any case wherein a President has appeared as a witness. The Law Librarian at the Library of Congress has advised that he has been unable to find a record of any case wherein a President has appeared as a witness. The Law Librarian also advised that he had consulted Messrs. William Tyler Page and John Fitzpatrick, who informed him that it is their belief that no President of the United States has ever appeared in any case as a witness.

Former President Theodore Roosevelt appeared as a character witness in the Riggs Bank case here in Washington, but that case was tried after he had left the White House. He also appeared in a libel suit filed by him against George A. Newett, publisher of *The Iron Ore*, Ishpeming, Michigan, but that was in 1913, after he had left the White House.

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