

REE:HM:rsn

3-15-72
MEMORANDUM

cc: Files
Marcuse
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Re: Immunity of Presidential Assistants
from being required to testify
before Congressional Committees.

*out to MacGregor
W.H. Lise
3/15/72 @ 9:20am*

We understand that it is being considered to invite Mr. Peter M. Flanigan to testify before this Committee.

Mr. Flanigan is one of the Administrative Assistants and Immediate Staff Assistants provided to the President by law. 3 U.S.C. 105, 106. It has been firmly established, as a matter of principle and precedents, that members of the President's immediate staff shall not appear before a congressional committee to testify with respect to the performance of their duties on behalf of the President. This limitation, which has been recognized by Congress as well as the Executive, is fundamental to our system of government.

Refusals of such type were made by Presidential Assistant John Steelman during the Truman Administration (Investigation of the GSI Strike, Hearings before a Special Subcommittee of the Committee on Education and Labor, House of Representatives, 80th Cong., 2d Sess., pp. 347-

353); Presidential Assistant Sherman Adams during the Eisenhower Administration (Power Policy, Dixon-Yates Contract, Hearings before the Subcommittee on Antitrust and Monopoly of the Committee on the Judiciary, United States Senate, 84th Cong., 1st Sess., pp. 676, 779); and Presidential Assistant DeVier Pierson during the Lyndon Johnson Administration (Nominations of Abe Fortas and Homer Thornberry, Hearings before the Committee on the Judiciary, United States Senate, 90th Cong., 2d Sess., pp. 1347, 1348).

When Presidential Assistants testified they did so with respect to their private affairs. See for instance, Donald Dawson, testimony during the Truman Administration in connection with an investigation of the RFC, Presidential Assistant Sherman Adams, testimony during the Eisenhower Administration (Investigation of Regulatory Commissions and Agencies, Hearings before a Subcommittee of the Committee on Interstate and Foreign Commerce, House of Representatives, 85th Cong., 2d Sess., pp. 3711-3740).