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~~1955~~ 1959

The Ugliest Senate Confirmation

By far the most distasteful assignment I ever had in public service came in the spring of 1959, one that landed me in the middle of a bitter feud of historic intensity. Knowing that he could not be confirmed for reappointment as Chairman of the AEC in 1958, Lewis Strauss planned to return to private life. However, President Eisenhower wanted to keep him in government and gave him a recess appointment as Secretary of Commerce where years earlier he had served a Secretary of Commerce, Herbert Hoover, probably Strauss's greatest booster.

Strauss was a very able self-made man. The son of a shoe salesman and with no connections, he exhibited great initiative during World War I by going to Washington to work free as a volunteer in the office of Herbert Hoover, then director of the Belgian Relief Commission, and then followed Hoover when he became Food Administrator to provide food relief for those in Europe rendered destitute by the war. After later serving Hoover in the Commerce Secretary's office, Strauss entered the private sector where, despite no college education, he performed brilliantly in an investment firm where he was a partner at age 32 and became wealthy.

Beginning with originating the idea of awarding an "E" for excellence to outstanding war plants in World War II, Strauss demonstrated strength and foresight in leading successful post-war battles to establish a system to detect Soviet atomic testing¹ and to develop the H-bomb despite opposition from fellow commissioners and Robert Oppenheimer, chair of the highly regarded General Advisory Committee composed of eminent scientists. But Strauss's tenure as chair of the AEC was marked with controversy, beginning with the suspension of Oppenheimer's security clearance and a Budget Bureau driven contract for a privately built atomic power plant in the heart of the TVA public power domain.² He developed a reputation as a man of war and big bombs though he had opposed dropping atomic bombs on Japan and pressed with vigor Eisenhower's Atoms for Peace program.

However, these controversies were not what would create the great fight he was to face in 1959 nearly so much as the feud that had developed with one powerful senator, Clinton Anderson (D. New Mexico). Unfortunately, Strauss had a talent for offending those with whom he disagreed, but none so much as Anderson. As with Strauss, Anderson was a very able and proud man. Both were unduly sensitive to

¹ Through the 1950s and 1960s the U.S. was faced with numerous efforts by the Soviet Union, generally supported by a number of Third World Countries, to negotiate a treaty under which we would stop development and testing of nuclear weapons. The problem was that the U.S. had no confidence that the Soviet Union would abide by the terms of the treaty, but would continue the type of testing for which we could not detect treaty violations.

² The infamous Dixon-Yates contract.

criticism, but not hesitant to criticize. Neither was capable of admitting mistakes. Both having reached positions of power in the same field, atomic energy, perhaps it was inevitable that with these characteristics, they would find themselves on a collision course.

After college, Anderson had moved from South Dakota to New Mexico because of a near fatal case of tuberculosis. As he recovered,³ he established an insurance business and was elected to the House of Representatives in 1940 where he established a reputation as a hard-digging investigator. As a poker playing companion of President Truman,⁴ he was appointed Secretary of Agriculture and in 1948 was elected to the Senate where he chaired the powerful Joint Committee on Atomic Energy (JCAE) three times.⁵

Soon after Eisenhower appointed Strauss chair of the AEC, Anderson began to complain that he was withholding information from the JCAE, evading the legislative requirement to keep the Committee fully informed. Anderson also attacked Strauss over Dixon Yates, but this led to attempts at reconciliation. As a part of this effort, Anderson invited Strauss to speak to a group of newspaper editors in New Mexico. Inexplicably, Strauss took the occasion to criticize Anderson as "having limited understanding." Why Strauss destroyed any chance of future cooperation by publicly embarrassing Anderson in his home state, we could never understand. But we did understand full well that the result would be that the feud would be now renewed with greater intensity. It was, and the intensity never abated during the Strauss chairmanship, significantly reducing the effectiveness of the Commission. The more Strauss limited the information flow to the JCAE, the greater the demands of Anderson and his staff for detailed information about policies and decisions still in their formative stage.

Nevertheless, after Strauss left AEC and his name came up for confirmation in 1959 for Secretary of Commerce, no one expected his nomination to fail. Neither did Anderson, despite his intention of developing as much opposition as possible. First, the Commerce Department was not involved in anything like the major policy issues of the day that confronted AEC, and there was little political potential at stake in the confirmation. Second, until that point, presidential nominees were expected to be confirmed. Only four prior U.S. presidents had experienced rejection of a nominee for a cabinet position, and they were all victims of policy disputes with Congress. No nominee in our history had ever been rejected on personal grounds. Finally, Eisenhower was widely respected as a person. Even those who disagreed

³ Anderson also developed diabetes, an ailment that added to his problem with Strauss. When late with his insulin shots, he became irritable, at times becoming intemperate in his remarks. Strauss either never fully realized this, or was unable to take this physical problem into account. He took Anderson's words very literally during these episodes.

⁴ A skilled card player, Anderson competed in the Grand National Championships in 1933 and 1934. He was also president of Rotary International.

⁵ The Committee chair alternated between House and Senate members. He served as chair in 1955, 1956, and 1959.

with his policies had no incentive to embarrass him personally by rejecting his choice for a cabinet position.

Although Anderson was not a member of the Committee holding the confirmation hearings, Democrat Warren Magnuson's Interstate Commerce Committee, he was very visible during the long, contentious hearings. He appeared with a 42 page attack in which he accused Strauss of "unqualified falsehoods". It had become apparent at the beginning of the proceedings that this was to be no ordinary hearing, and that the Anderson attack would center on the charge that Strauss had withheld information from Congress. Therefore, access to AEC information, and what had been available to the JCAE and when, would likely be the most sensitive and controversial focus of the proceedings. Because this issue was framed in the context of the balance of powers as set forth by our Constitution, it quickly caught the interest of the press and generated deep concern at the White House.

As the result, the AEC decided there needed to be a liaison between Anderson and Strauss to ensure accuracy of information supplied to each and serve as an impartial referee on disputed facts. Because that person needed to be able to draw instantly on the resources of the AEC and often be in a position to respond to politically charged questions within several hours, he or she needed to be located within AEC. Clearly, this horrible assignment was fraught with potential controversy damaging to the agency, including possible slipups that could tilt the balance of the confirmation vote one way or another, not to mention the danger to the unfortunate liaison. To my dismay, this assignment fell to me, ushering in the most stressful chapter of my career with the possible exception of the later Watergate period.

Surprisingly I was able to get both to agree to two ground rules that helped me survive the ordeal. First, I would provide only factual information without personal views of the material. Second, I would quickly inform one party of whatever information had been provided the other. Everything would be done openly. In addition, I decided to never clear my responses with AEC Chairman McCone, despite the volatility of much of the material. Although I kept him very well informed of anything of significance, I thought it important to insulate him and the White House from any impression that my responses were politically slanted or embellished. Mistakes could be charged to a bureaucrat not fully understanding the full impact of his action. This was my first experience with the practice of "deniability" which later entered into several inquiries about questionable White House operations.⁶

Although I was able to handle the assignment in a way that avoided the catastrophe I feared, it lived up to expectations of continuous stress and did become entangled in

⁶ Deniability is a controversial concept which is easy to abuse. It is one I had never thought through and adopted on the spur of the moment when an especially sensitive request from Anderson gave me pause as to how my response could easily be interpreted as politically favoring Strauss should AEC political level officials be involved in the response.

the debate toward the end. The phrase, "walking on eggshells" certainly applied. Many requests from both sides related to the time that elapsed between events and when the JCAE was informed. The content of some phone requests was nearly impossible to verify, and when I could not, I said so. The point at which development of certain policies reached the point that Congress was entitled to be informed was not always that clear. The JCAE and the Eisenhower Administration had very different interpretations of the "fully and currently informed" clause of the Atomic Energy Act.⁷ Further, what constituted informing the JCAE? Anderson expected to be made aware of developments well before they had reached final stages, but at what point was a matter on which even JCAE disagreed.

The subject matter of the requests for information varied widely from the red-hot issues concerning fallout from nuclear testing to application of the atom to medicine to the use of X rays in shoe stores over which the AEC had no control. Even such seemingly extraneous issues as the admission of Red China to the United Nations came into play.⁸ Some of Anderson's charges were irresponsible and vicious to the point that some JCAE members and staff quietly distanced themselves from his onslaughts. Although Strauss did not inform the JCAE as well as his successor, John McCone, some of the statements about his withholding information were false and unfair.

For example, Anderson introduced a statement from a former JCAE chairman and Republican congressman from New York, Mr. Sterling Cole, that stated, "...for the first time in the history of this Committee, it was necessary for this Committee to adopt a formal resolution to get information from the Commission." When Cole heard about this charge he wrote, "Let me emphasize that my criticism was directed to the Commission as an agency since the information at issue was withheld from the Joint Committee until a resolution was adopted and transmitted to the Commission. I believe it is only fair to point out that the Commission vote in this case was a 'split vote'. Mr. Strauss was in the minority and did not favor withholding the information from the Joint Committee." Anderson knew full well that Strauss had voted to provide the information.

Strauss was defiant and viewed as somewhat imperious in his responses, undermining the sympathy he would otherwise have gained from Anderson's attack. He tried, with mixed success, to answer questions about details of events that

⁷ No other department or agency had to contend with this contentious legislative requirement to which the Eisenhower Administration objected so vigorously. However, it should be noted that McCone had little problem handling this requirement in a way that did not weaken, but actually strengthened, the role of the executive branch. McCone was skilled in involving members of Congress in such a way that they completely trusted him and were generally eager to help the Administration move forward even though they might disagree on some of the details. The JCAE no longer felt it had to investigate or probe to get the facts. The more carefully McCone worked with the JCAE, the more the Executive Branch regained the initiative and the greater the success AEC had in gaining JCAE support.

⁸ The Soviets had introduced this topic into the negotiations on a test ban treaty and the IAEA Vienna conference. Despite Anderson's request for information, however, he did not use it in the Congressional hearings.

occurred years earlier. When I asked Strauss why he did this, pointing out that each time his memory was slightly inaccurate, his response was pounced upon as proving that he misled Congress. He responded, "Dwight, I am not going to pretend to be someone I am not. Congress should vote my confirmation on the basis of who I am, not an artificial personality crafted just to get through the hearings." In conversations with me, Anderson was very candid concerning his strategy. In the first weeks he said he was nowhere close to having enough votes to defeat Strauss, but it was his intention to prolong the hearings as long as possible in the belief that if they went long enough, Strauss personality would wear poorly and he would hang himself.

As the hearings went on and on, and the rancor increased, I dreaded the calls from Anderson and Strauss, each time wondering whether I would end up caught up in the debate rather than being just the messenger. Toward the end of the Senate debate, it happened.

One evening about 7:00 p.m. I was getting ready to leave the office when I had a call from Strauss asking whether it would be appropriate to ask about the profession of a witness named Inglis who was to testify against him the next morning. I told him that was public information to which he was certainly entitled. To make him feel more at ease, I went on to say that I had just provided similar information to a reporter, Bryson Rash, who had called earlier. Leaving requests for the information with several AEC offices, but without indicating the reason, I went home. As soon as I arrived, the phone rang with the information as to the occupation of the person whose name was Inglis. Quickly, I was able to phone the information back to Strauss who was still in his office, at the time wishing other requests were this simple and straightforward. How wrong I was.

After breakfast the next morning I was about to leave for work when I had a call from Drew Pearson, the last person I wanted to talk to. Long before Watergate, Pearson pioneered the art of investigative reporting. Not at all careful with the facts, he was skilled at one-sided reporting in which he embellished negative reports and attracted attention to his column with colorful headlines. Unfortunately, his column attracted considerable public attention to the consternation of targeted agencies.

After several disarming questions about the recent AEC move to Germantown, and sympathizing with our difficulty in recruiting capable secretaries in that location, he startled me by suddenly asking whether Strauss had called me last evening about seven. I had no choice but to say yes, dumfounded that he knew of the call and dreading what was behind the call. He then went on to ask if the request was for the occupation of the person, to which I also answered yes. Pearson said that was what he understood, and then added gratuitously that the Strauss inquiry seemed to be a perfectly legitimate request. I agreed, pointing out the similar request from the reporter I had answered shortly before the Strauss call.

Slightly relieved that Pearson recognized the Strauss request was appropriate, I was nonetheless very uneasy about the call because of Pearson's propensity for distorting facts and sensationalizing events that were perfectly proper. I immediately called Strauss who had just left home to have breakfast somewhere before heading for the office. I called his secretary, Virginia Walker, who was an exceedingly dedicated and capable person who had just arrived in the office. I told her of the call and the importance of alerting Strauss before he testified. Apparently tipped off by Pearson, Strauss was asked whether he had asked AEC for information about Mr. Inglis. Strauss said no, seeming to add a current and concrete example of Anderson's charge that Strauss was untruthful and had a pattern of misleading Congress. I never knew whether Virginia failed to contact Strauss or what happened. In any event, this was regarded by many as the straw that broke the camels back in the Strauss defense against Anderson's vicious attack, contributing heavily to the close vote of 49 to 46 that defeated his confirmation.

At first, I was mystified at how Pearson knew of the call from Strauss who was alone in his office at the time I phoned him with the information, and I was at home with my family. As my wife, Margaret, and I discussed the puzzle, she asked why I had called the phone company several days earlier to fix a problem she did not know we had. In fact, they had come twice. Since I had never called the company, it suddenly became clear that our home phone was bugged as our AEC investigators confirmed. The circumstantial evidence pointed to Pearson's assistant, Jack Anderson, but we had no hard evidence.

Strauss hid his bitterness at the loss by behaving in a gracious manner. He held a sumptuous dinner for the Eisenhower cabinet and one or two White House staff at his farm near Culpepper, Virginia. The only other person he invited was me, a remarkable gesture of appreciation that surprised me, especially in view of the fact that our missed communication figured in his defeat. In later years, I would receive a number of warm notes from Strauss.⁹

Senator Anderson also thanked me, and in the Johnson Administration he selected me as Executive Director of the cabinet commission he chaired that was established by the president to lead the urgent rebuilding of Alaska after the 1964 earthquake. I never dreamed I would emerge from this close involvement in a historic battle on warm terms with the two bitter protagonists. It was an episode I hoped never to repeat. Yet this painful experience was not all negative; as my public service continued, it helped me chart a course of action that carried me through some very volatile political waters in later presidencies.

In my work, I always took great pains to proceed in a bipartisan and open way with whatever presidential policy I was assigned to implement. Even when I held presidential appointed, Senate confirmed positions, I never had a problem with supporting a controversial presidential policy with which I agreed, while

⁹ In sending me his book, *Men and Decisions*, he penned in the overleaf, "For Dwight A. Ink, able and dedicated public servant, and good friend, with my very warm regard. Lewis L. Strauss."

implementing that policy in a professional, bipartisan manner. It always seemed to me that public servants have a basic duty to administer policies and laws in a bipartisan manner. This approach probably contributed to my being given the opportunity to serve in a series of administrations.