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THE WHITE HOUSE

WASHINGTON

January 13, 1975

MEETING WITH SENATOR JAMES EASTLAND (D-MISS)

Monday, January 13, 1975

5:00-5:15 p.m. (15 minutes)

The Oval Office

Through: Max L. Friedersdorf *mf*

From: William T. Kendall *WTK*

I. PURPOSE

To further discuss the nomination of Edward Levi as Attorney General of the United States.

II. BACKGROUND, PARTICIPANTS AND PRESS PLAN

A. Background:

1. The President, on December 12, met with Senator Hruska privately, and then with Hruska and Senator Eastland together on the subject of the Levi nomination as Attorney General. The President met again with Hruska this morning for a further discussion. Hruska, at the meeting this morning, suggested that he and Eastland would like another meeting with Levi before the nomination is announced. We are attempting to get the three of them together for breakfast at the White House tomorrow morning.
2. Purpose of the meeting this afternoon is to determine Eastland's position in the light of his talk with Hruska and others since the last meeting with the President (see Tab A, Areeda Memorandum)
3. If Eastland is in the same frame of mind as Hruska, he will be interested in appointment of judges, personnel at the department and Senate prerogatives in these matters.

B. Participants: The President
Senator James Eastland
Max Friedersdorf (staff)
William Kendall (staff)

C. Press Plan: Press Office to announce meeting as discussion
of Attorney General vacancy. White House
photographer only.

III. TALKING POINTS

1. Jim, now that the FBI inquiry into Ed Levi is complete,
I would like to move ahead on his nomination.
2. It would be my intention to possibly send the nomination
to the Senate Tuesday when Congress reconvenes.
3. Roman tells me that you and he have discussed this matter
further and that perhaps you two would like to meet with Levi
again.
4. Max Friedersdorf is trying to arrange a breakfast here in
the morning at 8:00 a.m.
5. I wanted to follow up our earlier talk and receive your views
on this matter before anything further is undertaken.

THE WHITE HOUSE
WASHINGTON

January 6, 1975

MEMORANDUM FOR THE PRESIDENT

FROM: PHILLIP AREEDA *P.A.*

SUBJECT: Edward H. Levi

Now that the FBI inquiry into Ed Levi is complete, we are ready to move on his nomination. I recommend the following steps:

- 1) That you visit with Hruska and then with Eastland to invite their views on Levi after meeting with him and to ascertain their intentions.
- 2) That, if you then wish to go forward with the appointment, Levi be informed of your desire and of our best estimate of the length and difficulty of the hearings.
- 3) That, if Levi wishes to go forward, we make the conflict of interest check with him.
- 4) That we announce the nomination, with advance notice to appropriate members of the Senate.

The remainder of this memorandum notes (I) what we now know about Hruska and Eastland views and (II) the possibly "derogatory" information in the FBI file that Eastland had already seen or will see.

(I)

A few days after Eastland and Hruska met with you, they lunched with Levi. We understand that the meeting went well. Nevertheless, Eastland has told at least one intimate of his (who told a friend of mine who told me) that Eastland will drag out the hearings.

A number of people have spoken with Hruska who is now apparently agreeable so long as he has an "open line" to Levi. Perhaps Hruska would like the opportunity to recommend certain appointments within the Justice Department. Ed Levi is entirely willing to meet and talk with Hruska at any time, and apparently has "no preconceived notions" about any such appointments. Neither Hruska nor Levi wants to initiate a conversation, but I see no reason why we cannot tell Hruska that Levi is entirely agreeable to receiving the benefit of all Hruska's thoughts about the Justice Department and that we shall certainly set up, on our initiative, a meeting between them.

Hruska also has said that he can handle Eastland.

Senator Tower has voiced objections to Levi on behalf of his conservative colleagues. He was called by George Shultz, who reports that Tower seemed reassured about Levi's qualities.

(II)

In the course of discussing Levi with Hruska or Eastland, some or all of the following points might arise. They are drawn from the FBI report.

1. Documents incident. In 1945 Mr. Levi terminated his employment as Special Assistant to the Attorney General of the United States. Sometime thereafter, he requested to have his personal files sent to him at the University of Chicago. In response to his request, several boxes containing classified reports and documents of the Economic Warfare Section of the Department were received by Mr. Levi and placed under lock and key. Mr. Levi said he never had occasion to look at or use any of the materials. In 1953, Mr. Levi voluntarily advised the FBI of his possession of the classified materials and returned them to the Department. Later in 1953 the Assistant Attorney General, Criminal Division, Department of Justice, concluded that prosecution of Mr. Levi as a result of this incident was not warranted because there was no evidence of unauthorized communication and because Levi cooperated with the FBI and acted in good faith when he volunteered information of his possession of the documents.

2. National Lawyers Guild. During the period 1936 to 1940, Mr. Levi was a member of the National Lawyers Guild. The Guild was formed in 1936 and continues in existence today under the reported domination of the Communist Party, advocating the violent overthrow of our government. Mr. Levi has stated that he dropped out of the organization when he first heard these charges against it. (It might be noted that the Chicago chapter of the National Lawyers Guild also included in its membership at that time the well known Republican lawyer Albert Jenner and the eminent Chicago entrepreneur Ben Heineman, President of the Chicago Northwestern Railroad.)

3. Recording of jury deliberations. In 1954, Mr. Levi directed a project out of the University of Chicago which was funded by the Ford Foundation to examine certain aspects of the jury system. The project involved a recording of the deliberations of a jury without their knowledge or approval. This is not to say, however, that there was any illegality or impropriety involved. Moreover, express permission was given by the judge involved in the case and by the senior Judge of the relevant Court of Appeals. The project was, moreover, supported by a broad spectrum of the bench and bar. After the incident became public, the matter was the subject of hearings by the Senate Internal Security Subcommittee which apparently viewed the project as a threat to our jury system. Levi now believes that the recording of jury deliberations was a mistake.

4. Associates. Perhaps a half-dozen of Mr. Levi's associates or friends, primarily at the University of Chicago, were alleged to be communist sympathizers or supporters during the late 1940's. There is no evidence that Levi knew of any such communist connection. Mr. Levi has also associated himself with public statements against the activities of the House Un-American Activities Committee, the Vietnam War, etc.

5. Qualifications. A number of people have questioned the qualifications of Mr. Levi for appointment as Attorney General based on his lack of experience in private practice. A few people have questioned his temperament for the position, suggesting he is of quick temper, highly opinionated, etc. One or two people suggested that Levi's views were "ultra liberal", especially on treatment of the poor and the blacks, but more than a hundred people contacted by the FBI -- and some of them are quite eminent -- spoke of his balanced temperament, considered judgement, familiarity with the legal profession and the legal system, and other admirable characteristics.