

Ronald Reagan Presidential Library

Digital Library Collections

This is a PDF of a folder from our textual collections.

WHORM Subject File Code: FE002-01

(Federal Government: Declaration of Independence -
Constitution: Presidential Powers - Succession - Terms of
Office)

Case File Number(s): 006316-039999

Box Number: 3

To see more digitized collections visit:

<https://www.reaganlibrary.gov/archives/digitized-textual-material>

To see all Ronald Reagan Presidential Library inventories visit:

<https://www.reaganlibrary.gov/archives/white-house-inventories>

Contact a reference archivist at: **reagan.library@nara.gov**

Citation Guidelines: <https://reaganlibrary.gov/archives/research-support/citation-guide>

National Archives Catalogue: <https://catalog.archives.gov/>

Last Updated: 02/19/2025

NSC/S PROFILE

UNCLASSIFIED

ID 8100172

RECEIVED 31 JAN 81 11

TO ALLEN

FROM FULLER, C

DOCDATE 30 JAN 81

006797

DD 1110

FE002-01

FG

FG0006-12

KEYWORDS: LEGAL ISSUES

SUBJECT: BURDEN OF PROOF FOR STATUTORY VALIDITY OF REGULATIONS

ACTION: PREPARE MEMO FOR ALLEN

DUE: 02 FEB 81 STATUS S FILES

FOR ACTION

FOR COMMENT

FOR INFO

KIMMITT

TYSON

COMMENTS BOB RECD IN NSC/S 1/31, DONT KNOW IF ANYONE ELSE SHLD GET CY

OR IF YOU CAN COMMENT FOR RA??? SAME AS OLD REFERRALS? DSM

REF#

LOG

NSCIFID

(D /)

ACTION OFFICER (S) ASSIGNED ACTION REQUIRED DUE COPIES TO

Allen

x 2/2

For Sig

2/3

C 2/2

LA add memo to C. Fuller

RK, ✓

DISPATCH

Hand delivered by Kay 2/2/81

W/ATTCH

FILE

(C) 44

MEMORANDUM

NATIONAL SECURITY COUNCIL

0172

ACTION

February 2, 1981

MEMORANDUM FOR: RICHARD V. ALLEN
FROM: ROBERT M. KIMMITT *BoL*
SUBJECT: Burden of Proof for Statutory
Validity of Regulations

The Office of Cabinet Administration seeks your comments on a proposal by Secretary Schweiker to shift the burden of proof from the public to the government to show the statutory validity of regulations (Tab A). The proposal is intended to make regulatory agencies demonstrate a clear statutory basis, and an established need, for future regulations.

A good agency general counsel should already be doing precisely what is suggested here, but there is apparently sufficient perceived abuse of the process by some agencies to warrant action by the President. There is a legal question as to the extent of the President's authority to give such instructions to independent regulatory agencies (FTC, FCC, et al.), but that will have to be resolved by the Attorney General and Fred Fielding.

RECOMMENDATION:

That you concur in the Schweiker proposal by signing the memorandum at Tab I.

Attachments .

James -

I delivered orig

2/2/81 at 1830

1 copy
2/2/81 J

THE WHITE HOUSE
WASHINGTON

Kind

for your comments

K

THE WHITE HOUSE

WASHINGTON

February 2, 1981

ACTION

MEMORANDUM FOR: CRAIG L. FULLER
DIRECTOR
OFFICE OF CABINET ADMINISTRATION

FROM: RICHARD V. ALLEN *Allen*

SUBJECT: Burden of Proof for Statutory
Validity of Regulations

I concur in the proposal by Senator Schweiker (Tab A) to shift the burden of proof from the public to the government to show the statutory validity of regulations. This proposal should be well received by regulatory agencies that already are responsible and cautious in issuing new regulations, and it will serve as a check on agencies that might tend toward excessive regulation.

THE WHITE HOUSE
WASHINGTON

In typing
0172

CABINET MATTER MEMORANDUM

DATE: JANUARY 30, 1981

TO: ALL CABINET MEMBERS
JIM BAKER
MIKE DEEVER
MARTIN ANDERSON
~~DICK ALLEN~~
RICHARD BEAL
DICK DARMAN

SUBJECT: BURDEN OF PROOF FOR STATUTORY
VALIDITY OF REGULATIONS

COMMENTS/VIEWS DUE BY: Monday, February 2, 1981

TENTATIVE CABINET
DISCUSSION DATE: Wednesday, February 4, 1981

RETURN TO: Craig L. Fuller
Director
Office of Cabinet Administration
456-2823

CABINET MATTER

- I. SUBJECT: Shifting the burden of proof from the public to the government to show statutory validity of regulations -- for possible inclusion in Executive Order on regulations.
- II. ORIGINATOR: Secretary Schweiker
- III. ACTION FORCING EVENT: Development of Executive Order on regulations.
- IV. STATEMENT OF THE ISSUE: Should the Executive Order include provisions to, in effect, shift the burden of proof from the public to the government to show statutory authority and justification for regulations?
- V. ANALYSIS: Under present law and practice, agency legal interpretations are given a presumption of validity, thereby shifting the burden of proof on people and businesses being regulated to show the regulation exceeds statutory authority. As a result, regulators have an opportunity to stretch the law with very broad interpretations. In addition, regulators now generally are not required to show substantial reasons for their regulation (such as clear facts showing the need for it); it is generally legally sufficient to show just enough rationale that the regulation does not appear arbitrary. As a result, regulators have an opportunity to largely ignore objections submitted by people and businesses being regulated.

Regulatory reformers in Congress have sought to change these standards through amending judicial review criteria to put the burden on the regulators to show their legal authority, and make them show substantial reasons and evidence for their regulation. This was included in the 1980 Bumpers Amendment (passed by the Senate but not the House), and the new Bumpers-Laxalt bill this year, and has been strongly supported by business groups.

The President can, by Executive Order, direct Executive Branch agency heads to adhere to these same standards as to clear legal authority and substantial evidence for regulations. This would effectively shift the burden of proof to the government to show the authority and justification for its regulations. This would not require new steps in the existing regulatory process of notice of proposed rulemaking, opportunity for public comment, and final promulgation. But it would require that this existing rulemaking process include more careful legal and factual analysis for the regulations to meet their burden of proof that the regulation is legal and justified.

As with other proposals for inclusion in the Executive Order, there are legal uncertainties about the President's authority to instruct independent regulatory agencies. The most recent prior Executive Order on regulations (E.O. 12044, March 23, 1978) avoided a confrontation in the courts and with Congress by relying upon voluntary compliance (influenced by budget process reviews) by independent agencies.

VI. RECOMMENDATION: That the Executive Order include a requirement that after normal notice and comment, and as part of final promulgation of any new regulation, the agency head must:

- (1) determine that the regulation is clearly within the authority delegated by law and consistent with Congressional intent, and include in the Federal Register at the time of promulgation a memorandum of law supporting that determination; and
- (2) determine that the reasons and factual conclusions behind the regulation are supported by substantial evidence in the agency record, including comments submitted by members of the public required to comply with the regulation, and include in the Federal Register a summary of the evidence supporting that determination.

VII. DECISION

_____ Approve _____ Approve as amended _____ Reject _____ No action

**WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET**

ID # 013976
FE002-01

☐ O - OUTGOING

☐ H - INTERNAL

☒ I - INCOMING

Date Correspondence Received (YY/MM/DD) 8/1031/19

Name of Correspondent: Richard A. Snelling

☒ MI Mail Report

User Codes: (A) _____ (B) _____ (C) _____

Subject: Writes again concerning his suggestion for a bill that would give the President emergency powers to accompany budget reductions with structural & regulatory changes. Encloses

ROUTE TO: draft of such bill, "The Emergency Economic Powers Act of 1981." ACTION DISPOSITION

Office/Agency	(Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
<u>/IA Mida</u>		ORIGINATOR	<u>8/103120</u>		<u>DD</u>	<u>8/103126</u>
		Referral Note:				
		Referral Note:				
		Referral Note:				
		Referral Note:				
		Referral Note:				

ACTION CODES:

A - Appropriate Action
C - Comments
D - Draft Response
F - Fact Sheet
I - Info Copy/No Action Necessary
R - Direct Reply w/Copy
S - For Signature
X - Interim Reply

DISPOSITION CODES:

A - Answered
B - Non-Special Referral
C - Completed
S - Suspended

FOR OUTGOING CORRESPONDENCE:

Type of Response = Initials of Signer
Code = "A"
Completion Date = Date of Outgoing

Comments: Answered by telephone call March 24 + 25th, 1981

Keep this worksheet attached to the original incoming letter.
Send all routing updates to Central Reference (Room 75, OEOB).
Always return completed correspondence record to Central Files.
Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

RECORDS MANAGEMENT ONLY

CLASSIFICATION SECTION

No. of Additional Correspondents: _____ Media: 2 Individual Codes: 2110 _____

Prime Subject Code: FE 00201 Secondary Subject Codes: FI 004 FG
FI 001-02 SI 045
LE _____

PRESIDENTIAL REPLY

Code	Date	Comment	Form
C		Time: _____	P- _____
DSP		Time: _____	Media: _____

SIGNATURE CODES:

CPn - Presidential Correspondence
 n - 0 - Unknown
 n - 1 - Ronald Wilson Reagan
 n - 2 - Ronald Reagan
 n - 3 - Ron
 n - 4 - Dutch
 n - 5 - Ron Reagan
 n - 6 - Ronald
 n - 7 - Ronnie

CLn - First Lady's Correspondence
 n - 1 - Nancy Reagan
 n - 2 - Nancy
 n - 3 -

CBn - Presidential & First Lady's Correspondence
 n - 1 - Ronald Reagan - Nancy Reagan
 n - 2 - Ron - Nancy

MEDIA CODES:

B - Box/package
 C - Copy
 D - Official document
 G - Message
 H - Handcarried
 L - Letter
 M - Mailgram
 O - Memo
 P - Photo
 R - Report
 S - Sealed
 T - Telegram
 V - Telephone
 X - Miscellaneous
 Y - Study

37
S.M.
RICHARD A. SNELLING
GOVERNOR



OFFICE OF THE GOVERNOR
STATE OF VERMONT
MONTPELIER, VERMONT 05602

March 13, 1981

013976

The Honorable Ronald Reagan
President of the United States
The White House
Washington, D.C.

Dear President Reagan:

In my letter to you earlier this month I suggested you might consider a bill which, if passed by Congress, would give you emergency powers to accompany budget reductions with structural and regulatory changes. Such emergency powers would enable your administration to "fast track" federalism reforms and program simplifications so that the states and local governments could better manage the impacts of the reductions and avoid undue shifting of burden and the threat of litigation. I have drafted such a bill for your consideration.

In my letter I also pointed out to you the advantage a request for such emergency temporary powers might provide even if rejected by Congress. Having tried to make the necessary structural and regulatory changes in concert with budget reductions, your administration would be less vulnerable to charges that the reductions were ill timed and unfair as Congress proves unable to accomplish the federalism reforms in a timely fashion.

I also have sent the proposal to Senator Roth in response to a request from him.

Sincerely,

A handwritten signature in blue ink, appearing to read "Dick Snelling".
Richard A. Snelling
Governor

RAS/amp
Enclosure

THE EMERGENCY ECONOMIC POWERS ACT OF 1981

A BILL

To grant to the President, for a period of 18 months, the authority to streamline, simplify and consolidate federal assistance programs in connection with reduced federal funding budgeted for fiscal years 1982 and 1983.

STATEMENT OF PURPOSE

Sec. 101 It is the purpose of this act

(1) To enable the President to accompany budget reductions in the funding of federal assistance programs to state and local governments with actions to permit grantees to set priorities and to allocate funds in accord with Congressional intent and objectives, and with executive oversight.

(2) To enable the President to waive certain requirements imposed by law and regulation pertaining to federal assistance programs budgeted to receive reduced funding in FY 1982 and/or 1983.

(3) To enable the President to consolidate federal assistance programs when such consolidation would further the goals and objectives of the programs consolidated.

DEFINITIONS

Sec. 102. As used in this Chapter -

(1) The term 'Agency' has the same meaning as the term 'Federal Agency' in Section 101 of the Intergovernmental Cooperation act of 1968.

(2) The term 'Federal Assistance' means any assistance provided by an agency in the form of grants, loans, loan guarantees, property, contracts, cooperative agreements or technical assistance to state or local governments, except that such term does not include direct cash assistance to individuals, contracts for the procurement of goods and services of the United States subsidies and insurance.

Sec. 103. Examination of Federal Assistance Programs Required

Prior to the beginning of fiscal year 1982, the President

shall examine all federal assistance programs scheduled for reduction in federal funding in that fiscal year to determine if it is necessary or desirable to -

(1) Waive certain generally applicable requirements or specific regulations which create a burden or cost for the grantee government, and are not clearly required to carry out the specific congressional intent and objectives of the federal assistance program itself; or,

(2) Consolidate related programs which have the same purposes;

Sec. 104. Statement of Waiver

(a) If the President, after making the examination required by Section 103 of this Chapter, finds that waiver of requirements or regulations is necessary or desirable to relieve an unjustified burden or cost from grantee government(s), he shall enact the waiver(s) by Executive Order and shall prepare and transmit to the Congress by October 1, 1981 a statement of "waiver" for each federal assistance program so affected.

(b) In each statement of waiver the President shall -

- (1) specify in detail and by federal register citation or other specific reference the regulation(s) or requirement(s) to be waived;
- (2) the nature and extent of the burden on state and/or local government created by the regulation(s) and/or requirement(s) to be waived; and,
- (3) include a statement that the regulation(s) and/or requirement(s) to be waived are not clearly required to carry out the specific Congressional intent and objectives of the federal assistance program.

Sec. 105. Consolidation Plans

(a) If the President, after making the examination required by Section 103 of this Chapter, finds that consolidation of related programs is necessary or desirable to simplify administration and facilitate the adaptation of federal assistance programs to the particular needs of grantee government(s) in order to provide greater productivity and

efficiency with reduced funding, he shall enact the consolidations by Executive Order and shall prepare and transmit to the Congress a Consolidation Plan for each group of functionally related programs.

(b) In each Consolidation Plan the President shall -

(1) place responsibility for administration of the consolidation plan in a single federal agency;

(2) specify in detail the terms and conditions under which the federal assistance programs included in the plan will be administered, including a specification of requirements such as state and local matching, allotment and apportionment, financial management, planning, eligibility requirements and accountability for results.

Sec. 106. Method of Taking Effect

A waiver or consolidation shall take effect by Executive Order of the President except that the Congress may act

within thirty (30) days of receipt by either House of a Statement of Waiver as provided for in Section 104 or a Consolidation Plan as provided for in Section 105 to overturn such order.

Sec. 106. State Plans

(a) The President may authorize the agencies to receive plans for spending fiscal 1982 and fiscal 1983 federal assistance funds for programs within the areas of responsibility of each agency. Such plans shall -

(1) conform to format and content requirements established by the agency secretary;

(2) cover broad areas of public concern and policy;

(3) include specific spending plans for functionally related programs within those broad areas;

(4) state specific state objectives and expected results;

and,

(5) specify rules, regulations, requirements from which

waivers, extensions or other relief is required.

(b) The Agency Secretary shall review state plans submitted to determine if (1) the plans are consistent with the intent and objectives of Congress; (2) if the state plans meet agency requirements established in (a)(1) above; and (3) if the planned activities conform to federal law and relevant regulations.

(c) Upon finding that the requirements of (b)(1), (2) and (3) are met the Secretary shall approve the state plans and shall -

(1) authorize at an amount specified by the Secretary or by applicable law, consolidated funding of the activities specified in the state plan by the agency subject to the requirements, rules and procedures specified in (a)(1) above;

(2) transmit a copy of the approved state plan to the Congress.

Sec. 107. Expiration or Termination of State Plans

(a) State Plans approved pursuant to Section 106 shall remain in effect through fiscal year 1983 or until -

(1) Congress adopts a block grant to consolidate federal assistance programs covered in the plan;

(2) Congress acts to terminate federal funding for The programs covered in the plan or;

(3) Congress enacts other reform(s) in the federal assistance system which provide the states with the authority to set priorities, allocate state and federal funds and establish institutional arrangements to meet national objectives with reduced and constrained federal oversight.

RECEIVED 31 MAR 81 19

TO

NANCE

FROM KIMMITT, Robert
X

DOCDATE 31 MAR 81

020158

1110

FY FE002.01

FG001

JL

FG006-12

KEYWORDS: LEGAL ISSUES

ADMINISTRATIVE

SUBJECT: RESIDENTIAL SUCCESSION

ACTION: FOR INFORMATION

DUE:

STATUS IX FILES

FOR ACTION

FOR COMMENT

FOR INFO

NANCE

COMMENTS

REF#

LOG

NSCIFID

(M /)

ACTION OFFICER (S)

ASSIGNED

ACTION REQUIRED

DUE

COPIES TO

C

4/2

noted by Nance

RK, Lz

DISPATCH

W/ATTCH

FILE

(C)

wg MB

Bob Kimmitt

MEMORANDUM

NATIONAL SECURITY COUNCIL

1687 *AK*

INFORMATION

March 31, 1981

MEMORANDUM FOR JAMES W. NANCE

FROM: ROBERT M. KIMMITT *Bob*
SUBJECT: Presidential Succession

The order of Presidential succession is:

Vice President
Speaker of the House
President pro tempore of the Senate
Secretary of State
Secretary of the Treasury
Secretary of Defense
Attorney General
Secretary of Interior
Secretary of Agriculture
Secretary of Commerce
Secretary of Labor
Secretary of Health and Human Services
Secretary of Housing and Urban Development
Secretary of Transportation
Secretary of Energy
Secretary of Education

At Tab A are relevant documents:

- Article II, section 5 of the Constitution
- 25th Amendment to the Constitution
- 3 U.S.C. section 19, as amended.

Attachments

Number of Votes shall be the President, if such Number be a Majority of the whole Number of Electors appointed; and if there be more than one who have such Majority, and have an equal Number of Votes, then the House of Representatives shall immediately chuse by Ballot one of them for President; and if no Person have a Majority, then from the five highest on the List the said House shall in like Manner chuse the President. But in chusing the President, the Votes shall be taken by States, the Representation from each State having one Vote; A quorum for this Purpose shall consist of a Member or Members from two thirds of the States, and a Majority of all the States shall be necessary to a Choice. In every Case, after the Choice of the President, the Person having the greatest Number of Votes of the Electors shall be the Vice President. But if there should remain two or more who have equal Votes, the Senate shall chuse from them by Ballot the Vice President.†*

³ The Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States.

⁴ No Person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty five Years, and been fourteen Years a Resident within the United States.

⁵ In Case of the Removal of the President from Office, or of his Death, Resignation, or Inability to discharge the Powers and Duties of the said Office,† the Same shall devolve on the Vice President, and the Congress may by Law provide for the Case of Removal, Death, Resignation or Inability, both of the President and Vice President, declaring what Officer shall then act as President, and such Officer shall act accordingly, until the Disability be removed, or a President shall be elected.

⁶ The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be encreased nor diminished during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them.

⁷ Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation:—"I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States."

SECTION. 2. ¹ The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States; he may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices, and he shall have Power to grant Reprieves and Pardons for Offences against the United States, except in Cases of Impeachment.

² He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Con-

sent of the Senate, shall appoint and Consuls, Judges of the United States, whose Appointment shall be provided for, and which shall may by Law vest the Appointment proper, in the President and Heads of Departments.

³ The President shall have power to grant Reprieves and Pardons, except in Cases of Impeachment, which shall expire at the End of their Term.

SECTION. 3. He shall from time to time give Information to the Senate on extraordinary Occasions, and in Case of Disagreement with the Senate, he may adjourn for not more than thirty Days, and he shall receive Ambassadors and other Ministers Plenipotentiary. He shall take Care that the Laws be faithfully executed, and he shall Commission all the Officers of the Army and Navy.

SECTION. 4. The President, Vice President, and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

SECTION. 1. The judicial Power shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at a fixed Time, receive a Compensation, which shall not be diminished while they continue in Office.

SECTION. 2. ¹ The judicial Power shall extend to all Cases in Law and Equity, arising under the Constitution, and Treaties made, or which shall be made, under Authority;—to all Cases affecting Ambassadors, Consuls, and other Ministers of the United States;—to all Cases of Controversy between two or more States;—between Citizens of another State;—between Citizens of the same State and a foreign State, and between a foreign State, Citizens or Subjects.

² In all Cases affecting Ambassadors, Consuls, and those in which a State shall have original Jurisdiction, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have Jurisdiction, both in Law and Fact; with such Exceptions, and under such Regulations as the Congress shall make.

³ The Trial of all Crimes, except Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the Crime shall have been committed; but

*This paragraph has been superseded by the twelfth amendment.

†This provision has been affected by the twenty-fifth amendment.

*This clause has been affected by the eleventh amendment.

December 19, 1960; New York, January 17, 1961; California, January 19, 1961; Oregon, January 27, 1961; Maryland, January 30, 1961; Idaho, January 31, 1961; Maine, January 31, 1961; Minnesota, January 31, 1961; New Mexico, February 1, 1961; Nevada, February 2, 1961; Montana, February 6, 1961; South Dakota, February 6, 1961; Colorado, February 8, 1961; Washington, February 9, 1961; West Virginia, February 9, 1961; Alaska, February 10, 1961; Wyoming, February 13, 1961; Delaware, February 20, 1961; Utah, February 21, 1961; Wisconsin, February 21, 1961; Pennsylvania, February 28, 1961; Indiana, March 3, 1961; North Dakota, March 3, 1961; Tennessee, March 6, 1961; Michigan, March 8, 1961; Connecticut, March 9, 1961; Arizona, March 10, 1961; Illinois, March 14, 1961; Nebraska, March 15, 1961; Vermont, March 15, 1961; Iowa, March 16, 1961; Missouri, March 20, 1961; Oklahoma, March 21, 1961; Rhode Island, March 22, 1961; Kansas, March 29, 1961; Ohio, March 29, 1961.

Ratification was completed on March 29, 1961.

The amendment was subsequently ratified by New Hampshire on March 30, 1961 (when that State annulled and then repeated its ratification of March 29, 1961).

The amendment was rejected by Arkansas on January 24, 1961.

ARTICLE [XXIV]

SECTION 1. The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay any poll tax or other tax.

SEC. 2. The Congress shall have power to enforce this article by appropriate legislation.

The 24th amendment to the Constitution was proposed by the Congress on August 27, 1962. It was declared, in a certificate of the Administrator of General Services, dated February 4, 1964, to have been ratified by the legislatures of 38 of the 50 States. The dates of ratification were: Illinois, November 14, 1962; New Jersey, December 3, 1962; Oregon, January 25, 1963; Montana, January 28, 1963; West Virginia, February 1, 1963; New York, February 4, 1963; Maryland, February 6, 1963; California, February 7, 1963; Alaska, February 11, 1963; Rhode Island, February 14, 1963; Indiana, February 19, 1963; Utah, February 20, 1963; Michigan, February 20, 1963; Colorado, February 21, 1963; Ohio, February 27, 1963; Minnesota, February 27, 1963; New Mexico, March 5, 1963; Hawaii, March 6, 1963; North Dakota, March 7, 1963; Idaho, March 8, 1963; Washington, March 14, 1963; Vermont, March 15, 1963; Nevada, March 19, 1963; Connecticut, March 20, 1963; Tennessee, March 21, 1963; Pennsylvania, March 25, 1963; Wisconsin, March 26, 1963; Kansas, March 28, 1963; Massachusetts, March 28, 1963; Nebraska, April 4, 1963; Florida, April 18, 1963; Iowa, April 24, 1963; Delaware, May 1, 1963; Missouri, May 13, 1963; New Hampshire, June 12, 1963; Kentucky, June 27, 1963; Maine, January 16, 1964; South Dakota, January 23, 1964.

Ratification was completed on January 23, 1964.

The amendment was rejected by Mississippi on December 20, 1962.

ARTICLE [XXV]

SECTION 1. In case of the removal of the President from office or of his death or resignation, the Vice President shall become President.

SEC. 2. Whenever there is a vacancy in the office of the Vice President, the President shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress.

SEC. 3. Whenever the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Vice President as Acting President.

SEC. 4. Whenever the Vice President and a majority of either the principal officers of the executive departments or of such other body as Congress may by law provide, transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office, the Vice President shall immediately assume the powers and duties of the office as Acting President.

Thereafter, when the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that no inability exists, he shall resume the powers and duties of his office unless the Vice President and a majority of either the principal officers of the executive department or of such other body as Congress may by law provide, transmit within four days to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office. Thereupon Congress shall decide the issue, assembling within forty-eight hours for that purpose if not in session. If the Congress, within twenty-one days after receipt of the latter written declaration, or, if Congress is not in session, within twenty-one days after Congress is required to assemble, determines by two-thirds vote of both Houses that the President is unable to discharge the powers and duties of his office, the Vice President shall continue to discharge the same as Acting President; otherwise, the President shall resume the powers and duties of his office.

The 25th amendment to the Constitution was proposed by the Congress on July 6, 1965. It was declared, in a certificate of the Administrator of General Services, dated February 23, 1967, to have been ratified by the legislatures of 39 of the 50 States. The dates of ratification were: Nebraska, July 12, 1965; Wisconsin, July 13, 1965; Oklahoma, July 16, 1965; Massachusetts, August 9, 1965; Pennsylvania, August 18, 1965; Kentucky, September 15, 1965; Arizona, September 22, 1965; Michigan, October 5, 1965; Indiana, October 20, 1965; California, October 21, 1965; Arkansas, November 4, 1965; New Jersey, November 29, 1965; Delaware, December 7, 1965; Utah, January 17, 1966; West Virginia, January 20, 1966; Maine, January 24, 1966; Rhode Island, January 28, 1966; Colorado, February 3, 1966; New Mexico, February 3, 1966; Kansas, February 8, 1966; Vermont, February 10, 1966; Alaska, February 18, 1966; Idaho, March 2, 1966; Hawaii, March 3, 1966; Virginia, March 8, 1966; Mississippi, March 10, 1966; New York, March 14, 1966; Maryland, March 23, 1966; Missouri, March 30, 1966; New Hampshire, June 13, 1966; Louisiana, July 5, 1966; Tennessee, January 12, 1967; Wyoming, January 25, 1967; Washington, January 26, 1967; Iowa, January 26, 1967; Oregon, February 2, 1967; Minnesota, February 10, 1967; Nevada, February 10, 1967.

Ratification was completed on February 10, 1967.

The amendment was subsequently ratified by Connecticut, February 14, 1967; Montana, February 15, 1967; South Dakota, March 6, 1967; Ohio, March 7, 1967; Alabama, March 14, 1967; North Carolina, March 22, 1967; Illinois, March 22, 1967; Texas, April 25, 1967; Florida, May 25, 1967.

ARTICLE [XXVI]

SECTION 1. The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.

SEC. 2. The Congress shall have power to enforce this article by appropriate legislation.

The 26th amendment to the C March 23, 1971. It was declared, i Services, dated July 5, 1971, to ha 50 States. The dates of ratification March 23, 1971; Minnesota, March ton, March 23, 1971; Hawaii, Mar Montana, March 29, 1971; Arkan Iowa, March 30, 1971; Nebraska, A April 7, 1971; Michigan, April 7, 1971; Indiana, April 8, 1971; Mair isiana, April 17, 1971; California, sylvania, April 27, 1971; Texas, A West Virginia, April 28, 1971; New Rhode Island, May 27, 1971; New Missouri, June 14, 1971; Wisconsin, June 30, 1971; Ohio, June 30, 1971; July 1, 1971.

Ratification was completed on J The amendment was subsequent July 8, 1971; Georgia, October 4, 1971.

TITLE 3

THE PRESIDENT

CHAPTER 1—PRESIDENTIAL ELECTIONS AND VACANCIES

§ 19. Vacancy in offices of both President and Vice President; officers eligible to act

[See Cum.Supp. for text of (a) to (c)]

(d) (1) If, by reason of death, resignation, removal from office, inability, or failure to qualify, there is no President pro tempore to act as President under subsection (b) of this section, then the officer of the United States who is highest on the following list, and who is not under disability to discharge the powers and duties of the office of President shall act as President: Secretary of State, Secretary of the Treasury, Secretary of Defense, Attorney General, Secretary of the Interior, Secretary of Agriculture, Secretary of Commerce, Secretary of Labor, Secretary of Health and Human Services, Secretary of Housing and Urban Development, Secretary of Transportation, Secretary of Energy, Secretary of Education.

[See Cum.Supp. for text of (2), (3); (e) and (f)]

As amended Pub.L. 95-91, Title VII, § 709(g), Aug. 4, 1977, 91 Stat. 609; Pub.L. 96-88, Title V, § 508(a), Oct. 17, 1979, 93 Stat. 692.

1979 Amendment. Subsec. (d)(1). Pub.L. 96-88 substituted "Secretary of Health and Human Services" for "Secretary of Health, Education, and Welfare" and inserted "Secretary of Education."

1977 Amendment. Subsec. (d)(1). Pub.L. 95-91 added the Secretary of Energy following the Secretary of Transportation in the enumeration of officers designated to act as President.

Effective Date of 1979 Amendment. Amendment by Pub.L. 96-88, effective 180 days after the first Secretary takes of-

fice, or on any earlier date on or after October 1, 1979, as the President prescribes and publishes in the Federal Register, with specified exceptions, see section 601 of Pub.L. 96-88, set out as a note under section 3401 of Title 20, Education.

Legislative History. For legislative history and purpose of Pub.L. 95-91, see 1977 U.S. Code Cong. and Adm. News, p. 854. See, also, Pub.L. 96-88, 1979 U.S. Code Cong. and Adm. News, p. —.

CHAPTER 2—OFFICE AND COMPENSATION OF PRESIDENT

Sec.
105. Assistance and services for the President.
106. Assistance and services for the Vice President.
107. Domestic Policy Staff and Office of Administration; personnel.
108. Assistance to the President for unanticipated needs.

Sec.
109. Public property in and belonging to the Executive Residence at the White House.
110. Furniture for the Executive Residence at the White House.
112. Detail of employees of executive departments.
113. Personnel report.
114. General pay limitation.

1978 Amendment. Pub.L. 95-570, §§ 1(b), 2(b), 3(b), 5(b)(2), (c)(2), Nov. 2, 1978, 92 Stat. 2447, 2449, 2450, 2451, substituted in item 105 "Assistance and services for the President" for "Compensation of secretaries and executive, administrative, and staff assistants to President"; in item 106 "Assistance and services for the Vice President" for "Administrative assistants"; in item 107 "Domestic Policy Staff and Office of Administration; per-

sonnel" for "Detail of employees of executive departments to office of President"; in item 108 "Assistance to the President for unanticipated needs" for "Accommodations for vehicles"; and in item 109 "the Executive Residence at the White House" for "Executive Mansion"; inserted in item 110 "the Executive Residence at the" preceding "White House"; and added items 112, 113 and 114.

ed by Democratic Party of Alabama from casting their votes for a candidate other than the Democratic national nominee after the 1948 general election to fill the office of President of the United States. *State v. Albritton*, 1948, 37 So.2d 640, 251 Ala. 422.

§ 18. Same; parliamentary procedure at joint meeting

While the two Houses shall be in meeting as provided in this chapter, the President of the Senate shall have power to preserve order; and no debate shall be allowed and no question shall be put by the presiding officer except to either House on a motion to withdraw. June 25, 1948, c. 644, § 1, 62 Stat. 672, amended Sept. 3, 1954, c. 1263, § 3, 68 Stat. 1227.

Library references: United States ~~25~~; C.J.S. United States § 28.
1954 Amendment: Act Sept. 3, 1954, amended section by substituting "chapter" for "subchapter".
Legislative History: For legislative history and purpose of Act Sept. 3, 1954, see 1954 U.S. Code Cong. and Adm. News, p. 3991.

§ 19. Vacancy in offices of both President and Vice President; officers eligible to act

(a) (1) If, by reason of death, resignation, removal from office, inability, or failure to qualify, there is neither a President nor Vice President to discharge the powers and duties of the office of President, then the Speaker of the House of Representatives shall, upon his resignation as Speaker and as Representative in Congress, act as President.

(2) The same rule shall apply in the case of the death, resignation, removal from office, or inability of an individual acting as President under this subsection.

(b) If, at the time when under subsection (a) of this section a Speaker is to begin the discharge of the powers and duties of the office of President, there is no Speaker, or the Speaker fails to qualify as Acting President, then the President pro tempore of the Senate shall, upon his resignation as President pro tempore and as Senator, act as President.

(c) An individual acting as President under subsection (a) or subsection (b) of this section shall continue to act until the expiration of the then current Presidential term, except that—

(1) if his discharge of the powers and duties of the office is founded in whole or in part on the failure of both the President-elect and the Vice President-elect to qualify, then he shall act only until a President or Vice President qualifies; and

(2) if his discharge of the powers and duties of the office is founded in whole or in part on the inability of the President or Vice President, then he shall act only until the removal of the disability of one of such individuals.

~~(d) (1) If, by reason of death, resignation, removal from office, inability, or failure to qualify, there is no President pro tempore to act as President under subsection (b) of this section, then the officer of the United States who is highest on the following list, and who is not under disability to discharge the powers and duties of the office of President shall act as President: Secretary of State, Secretary of the Treasury, Secretary of Defense, Attorney General, Secretary of the Interior, Secretary of Agriculture, Secretary of Commerce, Secretary of Labor, Secretary of Health, Education, and Welfare, Secretary of Housing and Urban Development, Secretary of Transportation.~~

(2) An individual acting as President under this subsection shall continue so to do until the expiration of the then current Presidential term, but not after a qualified and prior-entitled individual is able to act, except that the removal of the disability of an individual higher on the list contained in paragraph (1) of this subsection or the ability to qualify on the part of an individual higher on such list shall not terminate his service.

3 § 19

THE PRESIDENT

(3) The taking of the oath of office by an individual specified in the list in paragraph (1) of this subsection shall be held to constitute his resignation from the office by virtue of the holding of which he qualifies to act as President.

(e) Subsections (a), (b), and (d) of this section shall apply only to such officers as are eligible to the office of President under the Constitution. Subsection (d) of this section shall apply only to officers appointed, by and with the advice and consent of the Senate, prior to the time of the death, resignation, removal from office, inability, or failure to qualify of the President pro tempore, and only to officers not under impeachment by the House of Representatives at the time the powers and duties of the office of President devolve upon them.

(f) During the period that any individual acts as President under this section, his compensation shall be at the rate then provided by law in the case of the President. June 25, 1948, c. 644, § 1, 62 Stat. 672, amended Sept. 9, 1965, Pub.L. 89-174, § 6(a), 79 Stat. 669; Oct. 15, 1966, Pub.L. 89-670, § 10(a), 80 Stat. 948; Aug. 12, 1970, Pub.L. 91-375, § 6(b), 84 Stat. 775.

Library references: United States Code §§ 35; C.J.S. United States §§ 35, 37, 62-64.

1970 Amendment. Subsec. (d) (1). Pub.L. 91-375 struck out "Postmaster General," following "Attorney General."

1966 Amendment. Subsec. (d) (1). Pub.L. 89-670 added the Secretary of Transportation following the Secretary of Housing and Urban Development in the enumeration of officers designated to act as President.

1965 Amendment. Subsec. (d) (1). Pub.L. 89-174 included the Secretary of Health, Education, and Welfare and the Secretary of Housing and Urban Development in the list of officers eligible to act as President when there is no President pro tempore to act as President.

Effective Date of 1970 Amendment. Amendment by Pub.L. 91-375 effective within 1 year after Aug. 12, 1970, on date established therefor by the Board of Governors of the United States Postal Service and published by it in the Federal Register, see section 15(a) of Pub.L. 91-375, set out as a note preceding section 101 of Title 39, Postal Service.

Effective Date of 1966 Amendment. Amendment of section by Pub.L. 89-670 effective 90 days after the Secretary of Transportation first takes office, or on any earlier date after Oct. 15, 1966, as the President prescribes and publishes in the Federal Register, see section 15(a) of Pub.L. 89-670, set out in the note under section 1851 of Title 49, Transportation.

Effective Date of 1965 Amendment. Amendment of subsec. (d) (1) of this section by Pub.L. 89-174 effective upon expiration of first period of sixty calendar days following Sept. 9, 1965 or on earlier date specified by Executive order, see section 11(a) of Pub.L. 89-174, set out as a note under section 624 of Title 5, Executive Departments and Government Officers and Employees.

Legislative History: For legislative history and purpose of Pub.L. 89-174, see 1965 U.S. Code Cong. and Adm. News, p. 3011. See, also, Pub.L. 89-670, 1966 U.S. Code Cong. and Adm. News, p. 3362; Pub.L. 91-375, 1970 U.S. Code Cong. and Adm. News, p. 3649.

§ 20. Resignation or refusal of office

The only evidence of a refusal to accept, or of a resignation of the office of President or Vice President, shall be an instrument in writing, declaring the same, and subscribed by the person refusing to accept or resigning, as the case may be, and delivered in to the office of the Secretary of State. June 25, 1948, c. 644, § 1, 62 Stat. 672.

Library references: United States Code §§ 35; C.J.S. United States §§ 35, 37, 62-64.

Presidential Recordings and Materials Preservation Act. For protection and preservation of tape recordings of conversations involving former President Richard M. Nixon, see sections 101 to 106 of Pub.L. 93-526, set out as a note under section 2107 of Title 44, Public Printing and Documents.

§ 21. Definitions

As used in this chapter the term—

(a) "State" includes the District of Columbia.

(b) "executives of each State" includes the Board of Commissioners of the District of Columbia.

Added Pub.L. 87-389, § 2(a), Oct. 4, 1961, 75 Stat. 820.

Transfer of Functions. Section 401 of Reorganization Plan No. 3 of 1967, 32 F.R. 11669, 81 Stat. 948, transferred the functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the

Reorganization Plan. For establishing the office of the District of Columbia the Board of Commissioners

CHAPTER 2—OFFICE

Sec. 101. Commencement of
102. Compensation of
103. Traveling expenses
104. Salary of the Vice
105. Compensation of the
executive, administrative
assistants to the President
106. Administrative assistance
1 Section was repealed

Executive Office of the President papers, see Presidential proclamation publication, see 1 C

§ 101. Commencement

The term of four years for which the President is elected, shall, in succeeding the day of his inauguration, be June 25, 1948, c. 64

Library references: 1

President's Advisory Committee on Presidential Office Space. 1956, c. 925, 70 Stat. 97. Pub.L. 85-3 Jan. 25, 1958, created a President's Commission on Presidential Office Space to study the problem of providing office space for the White House and the other agencies of the Executive Office of the President. Section 1(b) of Act Aug. 3, 1958, required the Commission to report its findings and recommendations within 10 months after the date of the Commission's organization. Section 2(g) of Act Aug. 3, 1958, required the Commission to report its findings and recommendations within 30 days after the submission of its report.

Executive Office of the President. Statement on Organization of the Executive Office of the President. 14 F.R. 7858, as amended 18 F.R. 5688, provides: "Section I. Division of the President's Office of the President. Divisions listed below. "Sec. II. White House. White House Office and employees of the President required in the detailed activities in the White House office.

"Sec. III. Bureau of Management. The Bureau of Management of the President in the administration of the Executive Office of the President and the improvement of management and organization and improvement of statistics.

§ 102. Compensation

The President shall receive a salary of \$200,000 a year

29
MEMORANDUM

THE WHITE HOUSE
WASHINGTON

March 12, 1981

MG

020382

1110
FE002-01
FE001-04
FE010

TO: FRED FIELDING
FROM: *ML* MARY LAWTON
SUBJECT: Application of Executive Privilege to Transition Papers

To the best of my knowledge, the question you raise as to whether Executive Privilege applies to transition papers has not previously been determined. Nor do I think that the answer is at all clear. It may well depend on who prepared the papers, their content and who has custody of them.

The strongest case for executive privilege, in my view, pertains to those papers prepared during transition but brought to the White House and used after transition. You may recall that in the initial memo to staff on the Presidential Records Act it was pointed out that transition files brought to the White House and used by staff probably became Presidential records subject to that Act and to the government ownership it imposes. That Act, in turn, recognizes constitutional privileges which may limit access to Presidential papers, and provides for a notice system when subpoenas are issued so that privilege can be asserted. 44 USC 2204(c)(2), 2205(2), 2206. In case of Court or Congressional demand for transition files "incorporated by reference" into Presidential records this Act would present a strong argument for the existence of executive privilege.

Transition records retained in private ownership pose more of a problem. The underpinning of the privilege is separation of powers and a President-elect is not yet the Article II Executive in the Constitutional sense. While he may well have had the papers prepared in contemplation of the Office of President, the same could be said of some of his campaign papers which, I think, rather clearly fall outside the privilege. Still it may be argued that a President-elect has a quasi-official status both by reason of his election and the Presidential Transition Act, 3 USC 102 note, which recognizes the public interest in the orderly transfer of Executive power. The "public interest" is the standard by which claims of privilege are measured and if, as Congress has found, such interest enures in a President-elect an argument can be made that the privilege is applicable. Purists might argue that he is

not President-elect until the Electoral College has voted or its votes have been counted but Congress did not take this tack in the Transition Act.

Advice received from the President-elect's transition staff may have the same need for confidentiality as advice provided to a President by his staff. I doubt the same claim could be made for unsolicited advice or advice prepared by federal agencies during transition. (It defies political reality to suggest that agencies reporting to one President stand in a confidential relationship to a President-elect.) Thus, the source of the advice may affect the legitimacy of a privilege claim. Of course different rules would apply to classified information furnished to a President-elect by federal agencies. Once he becomes President he may clearly assert privilege as to these records.

Custody and control of the files may also have a bearing. Studies prepared for the transition which remain in private hands beyond the President's control may be beyond the scope of the privilege.

Justice once successfully asserted privilege over ATT files dealing with electronic surveillance but based its argument on the national security factor and on the unique status of ATT as the sole supplier of lease lines on which the government was forced to rely. The case is not a solid precedent for asserting privilege over records in private custody or control.

In the end, as you recall, the viability of any claim of executive privilege rests on the strength of the public interest claim for non-disclosure as against the need of the Court or Congressional Committee for the information. I suspect this is as true of transition papers as Executive Branch records.

THE WHITE HOUSE
WASHINGTON

October 13, 1981

03366155
1120
WHS • FE002-01
FE010-01
FG018
C0028
NR005
FG033-23
JL

MEMORANDUM FOR THE SECRETARY OF THE INTERIOR

SUBJECT: Congressional Subpoena for Executive
Branch Documents

I have been advised that the Subcommittee on Oversight and Investigations of the Energy and Commerce Committee of the House of Representatives has issued a subpoena requiring you to produce documents relating to the issue of reciprocity under the Mineral Lands Leasing Act. I understand that you have provided both documents and testimony on this subject to the Subcommittee.

Nevertheless, it has been brought to my attention that thirty-one documents that may be covered by the subpoena have not been furnished to the Subcommittee. It is my decision that you should not release these documents, since they either deal with sensitive foreign policy negotiations now in process or constitute materials prepared for the Cabinet as part of the Executive branch deliberative process through which recommendations are made to me. Therefore, I am compelled to assert Executive privilege with respect to these documents and to instruct you not to produce them to the Subcommittee. I request that you advise the Subcommittee of my decision in this matter.

I also request that you remain willing to meet informally with the Subcommittee to provide such information as you can, consistent with your obligations of confidentiality to the President, and without creating a precedent that would violate the Constitutional doctrine of separation of powers.

Cong. John Dingell

Ronald Reagan

Assertion of Executive Privilege

THE WHITE HOUSE

WASHINGTON

October 13, 1981

MEMORANDUM FOR THE SECRETARY OF THE INTERIOR

SUBJECT: Congressional Subpoena for Executive
Branch Documents

I have been advised that the Subcommittee on Oversight and Investigations of the Energy and Commerce Committee of the House of Representatives has issued a subpoena requiring you to produce documents relating to the issue of reciprocity under the Mineral Lands Leasing Act. I understand that you have provided both documents and testimony on this subject to the Subcommittee.

Nevertheless, it has been brought to my attention that thirty-one documents that may be covered by the subpoena have not been furnished to the Subcommittee. It is my decision that you should not release these documents, since they either deal with sensitive foreign policy negotiations now in process or constitute materials prepared for the Cabinet as part of the Executive branch deliberative process through which recommendations are made to me. Therefore, I am compelled to assert Executive privilege with respect to these documents and to instruct you not to produce them to the Subcommittee. I request that you advise the Subcommittee of my decision in this matter.

I also request that you remain willing to meet informally with the Subcommittee to provide such information as you can, consistent with your obligations of confidentiality to the President, and without creating a precedent that would violate the Constitutional doctrine of separation of powers.

Ronald Reagan

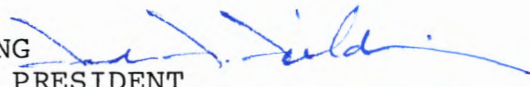
*Orig personally handed to Secretary Watt by Fred Fielding on 10/13/81
per Fred's secretary on 10/14/81 (TMD)*

THE WHITE HOUSE
WASHINGTON

October 13, 1981

executed by the President
1:55 pm. - Present: FFF
JAB III
Oct. 13, 1981

MEMORANDUM FOR THE PRESIDENT

FROM: FRED F. FIELDING 
COUNSEL TO THE PRESIDENT

SUBJECT: Assertion of Executive Privilege

Representative John Dingell, Chairman of the Subcommittee on Oversight and Investigations of the House Energy and Commerce Committee, has subpoenaed Secretary Watt to appear on October 14, 1981 and produce all documents relating to the determination of reciprocity between the United States and Canada under the Mineral Lands Leasing Act.

This subpoena followed extensive negotiations between Interior personnel and Mr. Dingell's staff, and production of numerous documents to the Subcommittee. Subsequent to the issuance of the subpoena, thirty-two additional documents were turned over (see Tab A). However, the remaining thirty-one documents are those utilized by the Department of Interior and the Cabinet Council on Trade Policy, which contain either classified information, or are frank, candid opinion or position papers used or being used in the formulation of policy. These documents are described in Tab B.

These documents have been reviewed at Interior, Justice and the White House. The Attorney General recommends that you exercise Executive Privilege and direct Secretary Watt not to turn over these documents. I concur in this recommendation.

This will be the first instance in which you have asserted Executive Privilege; it is a very strong case for the assertion.

RECOMMENDATION:

That you sign the Memorandum to Secretary Watt attached at Tab C.

That you initial all pages attached at Tab B.

81 10/13 6303

NOTED
10/14/81
Tm J

'81 OCT 13 P3:07

NP: Numbers do not
correspond to earlier list

WH

Materials Released October 9, 1981.

1. Papers entitled "North American Trade Agreement Study" prepared by agency staffs under coordination of the Office of U.S. Trade Representative.
2. Relevant portions of memorandum from Frank Vukmanic, June 29, 1981, regarding background paper for June 30, 1981, meeting of CFIUS.
3. Confidential State Department telegram regarding Canadianization of petroleum industry.
4. Letter from attorneys for Dome Petroleum Corporation to Secretary Watt, July 21, 1981.
5. Agenda of meeting between Canadian and U.S. officials Foreign Investment Review Agency.
6. Statistical summary of operation of Foreign Investment Review Agency dated May 13, 1981.
7. List of participants in meeting with U.S. officials Foreign Investment Review Act.
8. Opening remarks by Honorable Herb Gray, Minister responsible for the Foreign Investment Review Act, to the House Standing Committee on Finance, Trade, and Economic Affairs, May 26, 1981.
9. Letter from Secretary Baldrige and Ambassador Brock to Honorable Herb Gray, April 21, 1981.
10. Letter from Secretary Baldrige and Ambassador Brock to Honorable Herb Gray, April 9, 1981.
11. Letter from William Brock, United States Trade Representative, to Honorable Peter M. Tow, Ambassador of Canada, undated.

12. Briefing for Secretary Watt's July 15 press briefing: Foreign Investment and U.S. Energy Industry, undated.
13. Statement of James G. Watt, Secretary of the Interior, before the House Energy Subcommittee on Oversight, August 6, 1981.
14. Memorandum from Jack Campbell to Don Hodel, August 19, 1981, re: Canadian Energy Minister Mark Londe's statement.
15. Telegram from U.S. Embassy, Ohawa, September 18, 1980 regarding determination of reciprocating nations under the Mineral Leasing Act.
16. Interior Department memorandum from Ligia Salcedo, August 10, 1981 regarding reciprocity under MLA Section 1.
17. Letter from Don Hodel to Assistant Attorney General Baxter, August 12, 1981 regarding Canadian Reciprocity under Mineral Land Leasing Act.
18. Memorandum from Don Hodel to Roger Porter, August 17, 1981 regarding Secretary Watt's testimony on Canadian Foreign Investment Policy.
19. Undated, unsigned paper entitled "Canadian Foreign Investment Policy."
20. Undated, unsigned paper entitled "DOI review: Foreign Investment and the MLLA."
21. Undated, unsigned paper entitled "Questions and Answers on Canadian and Foreign Investment Policy."
22. Undated, unsigned draft memorandum entitled "Process for Determining Canada's Reciprocity Status under the MLLA."
23. Text and legislative history of Mineral Lands Leasing Act.
24. Letter to Ambassador Brock from Congressman Dingell, June 29, 1981.
25. Letter to the President from Congressman Dingell, June 24, 1981.

26. Outline of Trade Policy Study Committee study entitled Canadian Investment Strategy.
27. Outline of Study entitled Canadian Investment in the United States.
28. State Department telegram No. 2212 from American Embassy in Kuwait.
29. State Department telegram No. 3653 from American Embassy in Kuwait.
30. State Department telegram No. 4211 from American Embassy in Kuwait.
31. State Department memorandum dated July 21, 1981 regarding Mineral Lands Leasing Act.
32. Letters dated August 15, 1980, October 24, 1980, and January 8, 1981 regarding FIRA consideration of American corporation's attempt to acquire control of a Canadian enterprise. (To be shown to Subcommittee and staff but no copies provided).

B

WH copy

Items Not Being Released

1. Memorandum from William Brock, United States Trade Representative to members of the Trade Policy Committee, regarding options paper on Canadian Investment Policy dated July 6, 1981, and attached options paper.
2. Memorandum from the Assistant Secretary for Energy and Minerals to the Director of the Bureau of Land Management and the Solicitor of the Department of Interior regarding Canadian reciprocity determination under Mineral Lands Leasing Act, dated July 2, 1981.
3. Portions of meetings of Trade Policy Meetings dated July 7, and July 24, 1981.
4. Undated memorandum to the Secretary from the Solicitor of Interior regarding reciprocity determination.
5. Classified telegrams from U.S. Embassy in Canada dated July 17 and July 22, 1981.
6. Classified State Department memoranda from commercial officer AMCONGEN Calgary dated July 27, 1981.
7. Minutes of meeting of United States/Canada consultations on operations of the Foreign Investment Review Agency, dated June 12, 1981.
8. Drafts of testimony for Secretary of the Interior concerning foreign investment policy dated July 17, 1981, July 31, 1981 and August 5, 1981.
9. Undated paper prepared for Secretary of the Interior's use in Cabinet Council discussion entitled "Foreign Investment in the U.S. Energy and Mineral Industries."

RR

10. Undated memorandum to the Undersecretary of Interior ^{from} ~~to~~ the Solicitor, regarding legal issues on Canadian reciprocity.

11. Memorandum from Perry Pendley to Secretary Watt dated July 23, 1981, regarding Mineral Leasing Act.

12. Memorandum from Roger Porter to Cabinet Council on Economic Affairs, dated July 21, 1981, regarding Mineral Lands Leasing Act.

13. Memorandum from Roger Porter to James G. Watt regarding Cabinet Council on Economic Affairs meeting, July 22, 1981.

14. Cabinet Council on Economic Affairs agenda and issue paper on Canadian Foreign Investment Policy, dated July 21 and 23, 1981.

15. Memorandum for the Cabinet Council on Economic Affairs from Roger P. Porter, dated July 21 and 27, 1981.

16. Memorandum from Donald Hodel to Roger Porter and attached Cabinet Council issue paper on Canadian foreign investment policy, dated July 24, 1981.

17. Untitled, undated paper on Foreign Investment in the U.S. Energy and Minerals Energy.

18. Untitled, undated State Department paper on Mineral Lands Leasing Act of 1920.

19. Memorandum from William Brock to Trade Policy Committee, dated July 6, 1981, regarding attached paper on Canadian investment policy.

20. Memorandum to Director of Bureau of Land Management and Solicitor of Interior, dated July 2, 1981, regarding Canadian reciprocity determination under 1920 Mineral Leasing Act.

RR

21. Memorandum from Jack Campbell to Mark Santucci, dated September 4, 1981, regarding comments on early papers for TPSC response to Canada.

22. Undated memorandum to Secretary of Interior from Solicitor of the Interior regarding reciprocity determinations.

23. Memorandum from Jack Campbell to Frank Vukmanic dated July 14, 1981, regarding issues of concern to the Department of the Interior in foreign (Canadian) investment in U.S. companies.

24. Memorandum from Ligia Salcedo, July 14, 1981, regarding limited reciprocal status in Canada within the meaning of the Mineral Leasing Act.

25. Cabinet Council issue paper, July 24, 1981, regarding Canadian foreign investment policy.

26. Interior Department memorandum regarding issues concerning the Mineral Lands Leasing Act reciprocity provision.

27. Interior Department memorandum from Jack Campbell dated September 9, 1981, regarding further issues concerning the Mineral Leasing Lands Act reciprocity provision.

28. Interior Department memorandum from Jack Campbell, dated August 11, 1981, regarding first stage review of reciprocity provision of the Mineral Act.

29. Paper entitled "Legal Questions concerning the Non-Reciprocal Provision of the Mineral Lands Leasing Act of 1920."

30. Paper entitled "Options for Making Reciprocity Provisions under the Authority of the Mineral Lands Leasing Act of 1920."

31. Untitled Interior Department Options paper on foreign investments.

RR

[illegible]

Date	Description
1911	...
1912	...
1913	...
1914	...
1915	...

ID # 735482
FE002-01

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

☐ O - OUTGOING

☐ H - INTERNAL

☒ I - INCOMING

Date Correspondence
Received (YY/MM/DD)

8/108105

18 AUG 1981
PR

Name of Correspondent: Jack Brooks

☐ MI Mail Report

User Codes: (A) _____ (B) _____ (C) _____

Subject: Unitis again requesting a statement of the administration's policy regarding the use of the claim of "Executive privilege" to withhold information from Congress.

ROUTE TO:

ACTION

DISPOSITION

Office/Agency	(Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
<u>SA Frie</u>		ORIGINATOR ^{ICH}	<u>8/108106</u>	<u>MF</u>	<u>A</u>	<u>8/108114</u> ^{CH}
<u>CU FIEL (Drina Holland)</u>		Referral Note: <u>R</u> ^{CH}	<u>8/108118</u>		<u>C</u>	<u>1</u>
<u>CU AT09</u>		Referral Note: <u>D</u> ^{DD}	<u>8/108120</u>		<u>B</u>	<u>8/108127</u> ^{DD}
		Referral Note: _____	<u>1</u> <u>1</u>			<u>1</u> <u>1</u>
		Referral Note: _____	<u>1</u> <u>1</u>			<u>1</u> <u>1</u>
		Referral Note: _____	<u>1</u> <u>1</u>			<u>1</u> <u>1</u>

ACTION CODES:

A - Appropriate Action
C - Comments
D - Draft Response
F - Fact Sheet

I - Info Copy/No Action Necessary
R - Direct Reply w/Copy
S - For Signature
X - Interim Reply

DISPOSITION CODES:

A - Answered
B - Non-Special Referral
C - Completed
S - Suspended

FOR OUTGOING CORRESPONDENCE:

Type of Response = Initials of Signer
Code = "A"
Completion Date = Date of Outgoing

Comments: _____

Keep this worksheet attached to the original incoming letter.
Send all routing updates to Central Reference (Room 75, OEOB).
Always return completed correspondence record to Central Files.
Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

RECORDS MANAGEMENT ONLY

CLASSIFICATION SECTION

No. of Additional Correspondents: _____ Media: L Individual Codes: 1230 1240 _____

Prime Subject Code: FE 002-01 Secondary Subject Codes: FG 032 _____
FG 006-01 _____

PRESIDENTIAL REPLY

Code	Date	Comment	Form
C	_____	Time: _____	P-
DSP	_____	Time: _____	Media: _____

SIGNATURE CODES:

CPn - Presidential Correspondence

- n - 0 - Unknown
- n - 1 - Ronald Wilson Reagan
- n - 2 - Ronald Reagan
- n - 3 - Ron
- n - 4 - Dutch
- n - 5 - Ron Reagan
- n - 6 - Ronald
- n - 7 - Ronnie

CLn - First Lady's Correspondence

- n - 1 - Nancy Reagan
- n - 2 - Nancy
- n - 3 -

CBn - Presidential & First Lady's Correspondence

- n - 1 - Ronald Reagan - Nancy Reagan
- n - 2 - Ron - Nancy

MEDIA CODES:

- B - Box/package
- C - Copy
- D - Official document
- G - Message
- H - Handcarried
- L - Letter
- M - Mailgram
- O - Memo
- P - Photo
- R - Report
- S - Sealed
- T - Telegram
- V - Telephone
- X - Miscellaneous
- Y - Study

August 14, 1981

Dear Tom:

This is to acknowledge and thank you for the July 30 letter which you cosigned to the President with Congressmen Brooks, English, and Horton, regarding your previous request for a statement of the Administration's policy on the use of the claim of "executive privilege."

I have been in contact with the White House General Counsel's Office, and they have advised me that your request should be expedited in the very near future. As Ranking Minority Member of the Subcommittee on Government Information and Individual Rights, you may be assured that your interest in this matter is appreciated and that your views will receive every attention.

With cordial regard, I am

Sincerely,

Max L. Friedersdorf
Assistant to the President

The Honorable Thomas Kindness
House of Representatives
Washington, D.C. 20515

MLF:CMP:MDB

cc: w/copy of incoming to Fred Fielding (ATTN: DIANA HOLLAND) -
for DIRECT response (w/copy to Max Friedersdorf)

WH RECORDS MANAGEMENT HAS RETAINED ORIGINAL INCOMING

August 14, 1981

Dear Frank:

This is to acknowledge and thank you for the July 30 letter which you cosigned to the President with Congressmen Brooks, English, and Kindness, regarding your previous request for a statement of the Administration's policy on the use of the claim of "executive privilege."

I have been in contact with the White House General Counsel's Office, and they have advised me that your request should be expedited in the very near future. As Ranking Minority Member of the Committee on Government Operations, you may be assured that your interest in this matter is appreciated and that your views will receive every attention.

With cordial regard, I am

Sincerely,

Max L. Friedersdorf
Assistant to the President

The Honorable Frank Horton
House of Representatives
Washington, D.C. 20515

MLF:CMP:MDB

cc: w/copy of incoming to Fred Fielding (ATTN: DIANA HOLLAND) -
for DIRECT response (w/copy to Max Friedersdorf)

WH RECORDS MANAGEMENT HAS RETAINED ORIGINAL INCOMING

August 14, 1981

Dear Frank:

This is to acknowledge and thank you for the July 30 letter which you cosigned to the President with Congressmen Brooks, English, and Kindness, regarding your previous request for a statement of the Administration's policy on the use of the claim of "executive privilege."

I have been in contact with the White House General Counsel's Office, and they have advised me that your request should be expedited in the very near future. As Ranking Minority Member of the Committee on Government Operations, you may be assured that your interest in this matter is appreciated and that your views will receive every attention.

With cordial regard, I am

Sincerely,

Max L. Friedersdorf
Assistant to the President

The Honorable Frank Horton
House of Representatives
Washington, D.C. 20515

MLF:CMF:MDB

cc: w/copy of incoming to Fred Fielding (ATTN: DIANA HOLLAND) -
for DIRECT response (w/copy to Max Friedersdorf)

WH RECORDS MANAGEMENT HAS RETAINED ORIGINAL INCOMING

August 14, 1981

Dear Jack:

This is to acknowledge and thank you for the July 30 letter which you cosigned to the President with Congressmen English, Horton, and Kindness, regarding your previous request for a statement of the Administration's policy on the use of the claim of "executive privilege."

I have been in contact with the White House General Counsel's Office, and they have advised me that your request should be expedited in the very near future. As Chairman of the Committee on Government Operations, you may be assured that your interest in this matter is appreciated and that your views will receive every attention.

With cordial regard, I am

Sincerely,

Max L. Friedersdorf
Assistant to the President

The Honorable Jack Brooks
House of Representatives
Washington, D.C. 20515

MLF:CMP:MDB

cc: w/copy of incoming to Fred Fielding (ATTN: DIANA HOLLAND) -
for DIRECT response (w/copy to Max Friedersdorf)

WH RECORDS MANAGEMENT HAS RETAINED ORIGINAL INCOMING

MAJORITY MEMBERS

JACK BROOKS, TEX., CHAIRMAN
L. H. FOUNTAIN, N.C.
DANTE B. FASCELL, FLA.
BENJAMIN S. ROSENTHAL, N.Y.
DON FUQUA, FLA.
JOHN CONYERS, JR., MICH.
CARLIS COLLINS, ILL.
JOHN L. BURTON, CALIF.
GLENN ENGLISH, OKLA.
ELLIOTT H. LEVITAS, GA.
DAVID W. EVANS, IND.
TOBY MOFFETT, CONN.
HENRY A. WAXMAN, CALIF.
FLOYD J. FITHIAN, IND.
TED WEISS, N.Y.
MICHAEL L. SYNAR, OKLA.
EUGENE V. ATKINSON, PA.
STEPHEN L. NEAL, N.C.
DOUG BARNARD, JR., GA.
PETER A. PEYSER, N.Y.
BARNEY FRANK, MASS.
HAROLD WASHINGTON, ILL.
TOM LANTOS, CALIF.

NINETY-SEVENTH CONGRESS

Congress of the United States House of Representatives

COMMITTEE ON GOVERNMENT OPERATIONS

2157 Rayburn House Office Building

Washington, D.C. 20515

July 30, 1981

MINORITY MEMBERS

FRANK HORTON, N.Y.
JOHN N. ERLENBORN, ILL.
CLARENCE J. BROWN, OHIO
PAUL N. MC CLOSKEY, JR., CALIF.
THOMAS N. KINDNESS, OHIO
ROBERT S. WALKER, PA.
M. CALDWELL BUTLER, VA.
LYLE WILLIAMS, OHIO
H. JOEL DECKARD, IND.
WILLIAM F. CLINGER, JR., PA.
RAYMOND J. MC GRATH, N.Y.
HAL DAUB, NEBR.
JOHN HILER, IND.
DAVID DREIER, CALIF.
WENDELL BAILEY, MO.
LAWRENCE J. DE NARDIS, CONN.
JUDD GREGG, N.H.

MAJORITY—225-5051

MINORITY—225-5074

The President
The White House

035482

Dear Mr. President:

Earlier this year, following a bipartisan tradition, we requested on behalf of the Committee on Government Operations and its Subcommittee on Government Information and Individual Rights, a statement of the administration's policy regarding the use of the claim of "executive privilege" to withhold information from Congress. On March 12, Mr. Friedersdorf, responding on your behalf, advised the Subcommittee that its request had been forwarded "to the President's Legal Counsel for prompt attention." Four months have passed since the referral of that request and, as yet, there has been no response.

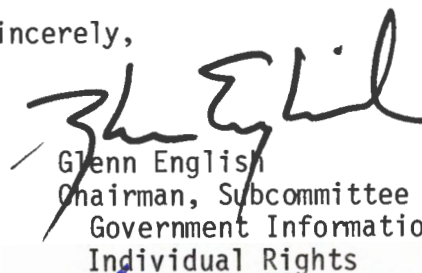
We are convinced that it is in the best interest of the Executive and the Congress to avoid contention or even the appearance of controversy regarding the use of the claim of "executive privilege." It is our firm belief that a statement at this time of your administration's policy would do much to diminish the prospect of confrontation.

Thank you for your attention to this matter.

Sincerely,



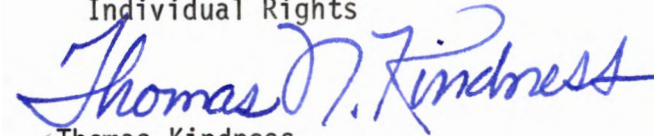
Jack Brooks
Chairman, Committee on
Government Operations



Glenn English
Chairman, Subcommittee on
Government Information and
Individual Rights



Frank Horton
Ranking Minority Member
Committee on Government Operations



Thomas Kindness
Ranking Minority Member
Subcommittee on Government
Information and Individual
Rights