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DOC NO	Doc Type	Document Description	No of Pages	Doc Date	Restrictions	
1	MEMO	ROBERTS TO FIELDING RE NATIONAL CANCER ADVISORY BOARD (PARTIAL)	3	4/17/1984	B6	760
2	MEMO	ROBERTS TO JOHN HERRINGTON RE NATIONAL CANCER ADVISORY BOARD (OPEN IN WHOLE)	2	4/17/1984	B6	761

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B-4 Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
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THE WHITE HOUSE

WASHINGTON

April 13, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS

SUBJECT: Proposed Presidential Address: Fudan University (4/12/-- 3:30 p.m. draft)

The attached incorporates the objections you noted to the above-referenced draft address.

Attachment

THE WHITE HOUSE

WASHINGTON

April 13, 1984

MEMORANDUM FOR BEN ELLIOTT
DEPUTY ASSISTANT TO THE PRESIDENT
DIRECTOR, PRESIDENTIAL SPEECHWRITING OFFICE

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Proposed Presidential Address: Fudan University (4/12 -- 3:30 p.m. draft)

Counsel's Office has reviewed the above-referenced remarks. We recommend deleting the last sentence on page 10 and the third sentence on page 11.

cc: Richard G. Darman

FFF:JGR:aea 4/13/84
bcc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

April 13, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS/JGR

SUBJECT: Administration Floor Position on the Brooks Wiretap Bill, H.R. 4620

OMB has asked for our views by close of business April 16 on an Administration floor position on H.R. 4620, as reported by the Government Operations Committee. As reported H.R. 4620 would essentially codify the GSA regulations prohibiting federal officers or employees from recording telephone conversations on the federal telephone system without the consent of all parties. Unlike the regulations, however, the bill would impose a penalty for a violation -- a fine of up to $10,000 and/or imprisonment for up to one year, and mandatory forfeiture of office or employment with the United States. This penalty provision was added at committee markup, taking the place of a provision that would have subjected recordings or transcripts of recordings made in violation of the act to the Privacy Act.

As you know, the Department of Justice is apoplectic about the presentation of Administration views on H.R. 4620. Justice's detailed objections to the bill -- based on its adverse effects on law enforcement -- were fully communicated to OMB prior to Committee markup, but OMB -- acting on its own without support from any affected agency -- refused to allow those objections to be shared with the Committee. OMB based its position on purported appearance problems associated with opposition to the bill, and a previously delivered report in which GSA stated that it had no objection to codification of the regulations, although other agencies might have reservations about the bill. Justice notes that the "no objection to codification" position was added by OMB after circulation of the GSA proposed report, and was only cleared telephonically by a staff-level employee at Justice. (Incidentally, our office was provided with an opportunity to review only the circulated version of the GSA testimony, opposing codification. We did not even get the telephone call Justice did.)

As we have discussed, I have prepared a memorandum for OMB, recommending that the Administration oppose the bill for the reasons articulated by Justice and the other affected agencies. Regardless of whether OMB is right that Justice

should have been more careful to catch the GSA revised testimony, or Justice is right that OMB manipulated the clearance process to pursue its own agenda, it was irresponsible for OMB to permit the bill to be reported without making the Committee aware of the deeply-held objections of Justice and Treasury, objections raised by those agencies with OMB well before markup.

Attachment

THE WHITE HOUSE

WASHINGTON

April 13, 1984

MEMORANDUM FOR JAMES C. MURR
CHIEF, ECONOMICS-SCIENCE-GENERAL GOVERNMENT
BRANCH, OMB

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Administration Floor Position on the Brooks Wiretap Bill, H.R. 4620

Counsel's Office has reviewed the above-referenced bill reported by the Government Operations Committee. We recommend that the Administration oppose the bill for the reasons that have been articulated by the Department of Justice and other affected agencies. It is unfortunate that those reasons were not shared with the Committee prior to the reporting of the bill. Whatever the reasons for that, Justice's objections -- and those of the other affected agencies -- are of sufficient magnitude that they should be voiced and the bill opposed.

FFF:JGR:aea 4/13/84
cc: FFFielding;JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

April 13, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS

SUBJECT: Letter To James A. Baker, III
Regarding Cities in Schools Program

Kathy Camalier, on behalf of Mr. Baker, has asked for our views on a letter Robert Baldwin of Morgan Stanley has requested Mr. Baker to send to Ross Perot. The letter asks Perot to meet with Baldwin to discuss the Cities in Schools program, of which Baldwin is a leader. Cities In Schools is a 501(c)(3) organization focusing on the problems of school dropouts and school violence. The draft letter, prepared by Cities In Schools, states that the Administration supports Cities In Schools and urges Perot to "consider supporting this effort along with other leading businessmen."

You may recall that last month Baldwin asked Baker to arrange a White House luncheon at which Cities In Schools officials could present their program to business leaders and seek to obtain their support. We recommended against such a luncheon by memorandum dated March 12 (attached). That memorandum noted that such a luncheon would contravene the White House policy of not endorsing particular charitable organizations, would violate the policy against use of the White House for fundraising, and also risked intruding the White House into the decisions of other agencies on grant applications involving Cities In Schools.

I see the same problems with the proposed letter. Baldwin is, quite simply, asking Mr. Baker to use his office to promote the efforts -- including fundraising efforts -- of a private charity. Other charities not able to trade on the prestige of the Presidency to aid their programs will be understandably resentful or try to get in on the act. Furthermore, the letter is a general endorsement of Cities In Schools, even though we know little about the organization (other than what they have told us) and have no control whatsoever over its activities.

Camalier asked if there were a compromise letter Mr. Baker could send in the event we considered Baldwin's draft too strong. The problem, however, is not so much Baldwin's

particular language but the very idea of using Mr. Baker as an entree for private fundraising efforts. I recommend advising Camalier that Mr. Baker stay completely out of the charitable fundraising business.

Attachment

THE WHITE HOUSE

WASHINGTON

April 13, 1984

MEMORANDUM FOR KATHERINE CAMALIER
STAFF ASSISTANT TO THE CHIEF OF STAFF

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Letter To James A. Baker, III
Regarding Cities in Schools Program

You have asked for our views on a letter that Robert Baldwin of Morgan Stanley and Cities In Schools, Inc., has requested Mr. Baker to send to Ross Perot. The letter expresses Administration support for Cities In Schools, and urges Mr. Perot to meet with Mr. Baldwin and consider lending his support to the program.

We are compelled to recommend that Mr. Baker not send the letter submitted by Mr. Baldwin. In addition, we must advise that Mr. Baker not otherwise involve himself in promoting Cities In Schools to Mr. Perot or others. As I noted in my memorandum to you of March 12, recommending against a White House event to benefit Cities In Schools, the White House generally avoids endorsing or otherwise supporting particular charitable organizations, not only to preclude charges of favoritism but also because we are not equipped to monitor the activities of charitable organizations, which would be necessary to some extent if the White House were to support a particular organization. Furthermore, Mr. Baldwin is seeking an entree to Mr. Perot for fundraising purposes, and the White House generally avoids participating in the fundraising efforts of particular charitable organizations, no matter how laudable. I am certain you will recognize that aiding the fundraising efforts of one organization would generate a flood of requests from other equally worthy charitable organizations, requests that would be that much more difficult to decline. More significantly, enlisting White House staff members in support of private fundraising is in essence trading on the prestige of the Office of the Presidency, and should be avoided.

FFF:JGR:aea 4/13/84
cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

April 13, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS

SUBJECT: Proposed Presidential Address: Fudan University (4/12 -- 3:30 p.m. draft)

Richard Darman has asked that comments on the above-referenced remarks be sent directly to Ben Elliott by noon today. The remarks begin by discussing Chinese-American student exchange programs, and announce plans for a Chinese astronaut to travel on the space shuttle. The President next discusses the profound impact of Chinese civilization on America, and the contributions of several prominent Americans who emigrated from China. The remarks then provide an overview of American values and beliefs, and conclude with a recital of the interests and values shared by China and America.

In the last paragraph on page 10, the President refers to the role of religion in shaping the American character, noting that most Americans derive their religious belief from the Holy Bible. This formulation strikes me as broad enough to be generally unoffensive (except perhaps to the ACLU), and in any event the President does state that we are "a Nation of many religions."

I have reviewed the draft remarks and have no objections.

Attachment

THE WHITE HOUSE

WASHINGTON

April 13, 1984

MEMORANDUM FOR BEN ELLIOTT
DEPUTY ASSISTANT TO THE PRESIDENT
DIRECTOR, PRESIDENTIAL SPEECHWRITING OFFICE

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Proposed Presidential Address: Fudan University (4/12 -- 3:30 p.m. draft)

Counsel's Office has reviewed the above-referenced remarks, and finds no objection to it from a legal perspective.

cc: Richard G. Darman

FFF:JGR:aea 4/13/84
bcc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

April 13, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS

SUBJECT: Presidential Taping: Maine State Republican Convention/Tuesday, April 17, 1984

Richard Darman has asked that comments on the above-referenced remarks be sent directly to Ben Elliott by 5:30 p.m. today. The remarks praise Secretary Dole, who is participating in the convention, and Margaret Chase Smith, who is being honored at the convention. The President urges the delegates to work for the re-election of Maine's Republican Senator Cohen and Representatives Snowe and McKernan. I have reviewed the brief remarks and have no objection.

Attachment

THE WHITE HOUSE

WASHINGTON

April 13, 1984

MEMORANDUM FOR BEN ELLIOTT
DEPUTY ASSISTANT TO THE PRESIDENT
DIRECTOR, PRESIDENTIAL SPEECHWRITING OFFICE

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Presidential Taping: Maine State Republican Convention/Tuesday, April 17, 1984

Counsel's Office has reviewed the above-referenced remarks, and finds no objection to them from a legal perspective.

cc: Richard G. Darman

FFF:JGR:aea 4/13/84
bcc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

April 13, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS

SUBJECT: Proposed Presidential Remarks:
Welcoming Banquet at Great Hall
(April 12 -- 12:00 noon draft)

Richard Darman has asked that comments on the above-referenced remarks be sent directly to Ben Elliott by noon today. The toast discusses the benefits of Chinese-American cooperation, not only in trade, cultural exchanges, and technological development but mutual security as well. The President states that American development "flows from the creative enterprise we have permitted our people to exercise," but recognizes that how far the Chinese move in this direction is "a matter for your own discussion and debate." I have reviewed the toast and have no objections.

Attachment

THE WHITE HOUSE

WASHINGTON

April 13, 1984

MEMORANDUM FOR BEN ELLIOTT
DEPUTY ASSISTANT TO THE PRESIDENT
DIRECTOR, PRESIDENTIAL SPEECHWRITING OFFICE

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Proposed Presidential Remarks:
Welcoming Banquet at Great Hall
(April 12 -- 12:00 noon draft)

Counsel's Office has reviewed the above-referenced remarks, and finds no objection to them from a legal perspective.

cc: Richard G. Darman

FFF:JGR:aea 4/13/84
bcc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

April 13, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS

SUBJECT: Proposed Presidential Remarks: Foxboro-Shanghai Joint Venture (April 12 -- 12:00 noon draft)

Richard Darman has asked that comments on the above-referenced proposed remarks be sent directly to Ben Elliott by noon today. The brief remarks describe the success of Shanghai-Foxboro, a joint venture between Chinese and American firms that produces technologically advanced instrumentation systems. The President states that he hopes the success of Shanghai-Foxboro will encourage development of many other similar joint ventures. I have reviewed the remarks and have no objections.

Attachment

THE WHITE HOUSE

WASHINGTON

April 13, 1984

MEMORANDUM FOR BEN ELLIOTT
DEPUTY ASSISTANT TO THE PRESIDENT
DIRECTOR, PRESIDENTIAL SPEECHWRITING OFFICE

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Proposed Presidential Remarks: Foxboro-Shanghai Joint Venture (April 12 -- 12:00 noon draft)

Counsel's Office has reviewed the above-referenced proposed remarks, and finds no objection to them from a legal perspective.

cc: Richard G. Darman

FFF:JGR:aea 4/13/84
bcc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

April 12, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS

SUBJECT: Presidential Remarks: Victims of Crime Ceremony, Friday, April 13, 1984

Richard Darman has asked that comments on the above-referenced proposed remarks be sent directly to Ben Elliott as soon as possible. The brief remarks, to be delivered on the signing of the Crime Victims Week proclamation, honor four victims of crime who will be present at the ceremony. The remarks also refer to the Administration's proposed Victims of Crime Assistance Act of 1984. I have reviewed the remarks and have no objections.

Attachment

THE WHITE HOUSE

WASHINGTON

April 12, 1984

MEMORANDUM FOR BEN ELLIOTT
DEPUTY ASSISTANT TO THE PRESIDENT
DIRECTOR, PRESIDENTIAL SPEECHWRITING OFFICE

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Presidential Remarks: Victims of Crime Ceremony, Friday, April 13, 1984

Counsel's Office has reviewed the above-referenced proposed remarks, and finds no objection to them from a legal perspective.

cc: Richard G. Darman

FFF:JGR:aea 4/12/84
bcc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

April 16, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS JGR

SUBJECT: Judicial Conference Invitation to Merrie Spaeth

Merrie Spaeth recently joined the White House staff as Special Assistant to the President for Media Relations and Planning. She previously was director of the FTC Public Information Office, and in that capacity was invited to participate in a panel discussion at the Fifth Circuit Judicial Conference on "The Media and the Courts." The Fifth Circuit Judicial Conference has offered to reimburse Spaeth for her travel and lodging expenses. Spaeth asks (1) if she may still accept the invitation and (2) if she may accept reimbursement of expenses.

You will recall that we discussed this question at a recent staff meeting, and decided that Spaeth may accept the invitation but should not accept reimbursement of expenses. Our records confirm that your expenses associated with attendance at judicial conference meetings were paid for out of White House travel funds and were not reimbursed by the Judicial Conference. Justice Department officials, who often attended judicial conference meetings, also cover their expenses with appropriated funds and do not accept reimbursement. A memorandum consistent with our discussion is attached.

Attachment

THE WHITE HOUSE

WASHINGTON

April 16, 1984

MEMORANDUM FOR MERRIE SPAETH
SPECIAL ASSISTANT TO THE PRESIDENT
FOR MEDIA RELATIONS AND PLANNING

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Judicial Conference Invitation to Merrie Spaeth

You have asked whether you may still accept an invitation to attend the Fifth Circuit Judicial Conference extended to you while you were serving as Director of the Public Information Office at the Federal Trade Commission. You were invited to the Conference to participate in a panel discussion on "The Media and the Courts," and the Conference offered to reimburse you for travel and lodging expenses.

We have no legal objection to your acceptance of the invitation. Your appearance on the panel, however, is within the scope of your new official duties, and accordingly your travel expenses must be paid for out of appropriated funds. Acceptance of reimbursement from the Conference would raise serious supplementation of appropriations concerns, and is not permitted. Since you will be required to obtain Government payment of your travel expenses, you should, as specified in the White House Travel Handbook, obtain the approval of the Assistant to the President for Management and Administration, John F.W. Rogers, before acceptance of the invitation.

Thank you for raising this matter with us.

FFF:JGR:aea 4/16/84
cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

April 16, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS

SUBJECT: Enrolled Res. S.J. Res. 173 -- Historic American Buildings Survey

Richard Darman has asked for comments on the above-referenced enrolled resolution by 10:00 a.m. today. This resolution, which passed both Houses by voice vote, simply commends the Historic American Buildings Survey. The Survey is a 51-year old project of the National Park Service, the Library of Congress, and the American Institute of Architects to document historic buildings in America, not only for study purposes but also so that they may be authentically restored in the event of fire or other damage. OMB and Interior recommend approval; I have no objections.

Attachment

THE WHITE HOUSE

WASHINGTON

April 16, 1984

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Enrolled Res. S.J. Res. 173 --
Historic American Buildings Survey

Counsel's Office has reviewed the above-referenced enrolled resolution, and finds no objection to it from a legal perspective.

FFF:JGR:aea 4/16/84
cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

April 16, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS

SUBJECT: Computer Crime Legislation
H.R. 5112

Assistant Attorney General McConnell has asked for your assistance in expediting OMB clearance of Justice's proposed "Federal Computer Systems Protection Act of 1984." According to McConnell, Congressman Hughes plans to move computer crime legislation through Congress this year, and will mark up his own bill on April 26 unless the Administration submits its bill before that date.

The Justice proposal (attached) would add new sections to Title 18, making it a felony to knowingly devise or intend to devise a scheme to defraud, obtain money by false pretenses, or embezzle and to access or attempt to access certain computers in connection with the scheme. The computers covered by the bill are those owned by, contracted to, or operated for the U.S. Government or a federally-insured financial institution, or those operating in interstate commerce. The bill authorizes a penalty of up to five years imprisonment and/or a fine of up to $50,000 or double the amount derived from the crime, whichever is greater. The bill also proscribes damage to covered computers or computer programs, and for a violation of this provision authorizes the additional penalty of forfeiture of the computer used to commit the crime. This additional penalty is designed to deter the junior high school computer whizzes who break into the Los Alamos computers and do such things as change the targets on all our nuclear missles to various points in New Jersey.

McConnell submitted the Justice proposal to OMB on March 16, 1984, so OMB can hardly be accused at this point of inordinate delay in clearing the bill. Nonetheless, in light of the imminence of action on this topic in Congress, McConnell would like to have the package cleared by April 20. I have reviewed Justice's proposed bill and have no objections. The attached draft memorandum for Jim Murr notes that we have no objection to the bill and also nudges OMB to expedite clearance.

Attachment

THE WHITE HOUSE

WASHINGTON

April 16, 1984

MEMORANDUM FOR JAMES C. MURR
CHIEF, ECONOMICS-SCIENCE-GENERAL GOVERNMENT
BRANCH, OFFICE OF MANAGEMENT AND BUDGET

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Computer Crime Legislation
H.R. 5112

Counsel's Office has reviewed the "Federal Computer Systems Protection Act of 1984," submitted by the Department of Justice for clearance on March 16. We have no objection to the bill, the section-by-section analysis, or the transmittal letter to the Speaker. We are advised by the Department of Justice that imminent Congressional action on other, flawed computer crime bills makes it highly desirable to submit an Administration proposal by April 20, and we would accordingly appreciate expediting clearance of the Justice proposal.

FFF:JGR:aea 4/16/84
cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

April 16, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS

SUBJECT: Video Tape on Voluntarism

Jim Coyne has asked for guidance on the proper way to accept $20,000 from DuPont to fund a project of the Office of Private Sector Initiatives. Coyne's office is compiling a video tape of 13 successful examples of private sector initiatives from across the country. The video tape will be widely distributed to encourage others to imitate the successes depicted on the tape. Group W has volunteered to reproduce the tapes, which would be distributed by the National Association of Broadcasters. Production and distribution costs were estimated at $20,000, so Coyne sought private sector funding and secured a commitment from DuPont for the full amount. Coyne suggests either having the company that will be producing the video tape for his office bill DuPont directly, or having "[t]he $20,000 going from DuPont to a 501(c)(3) group to be drawn down from this office to cover production and distribution costs."

It seems clear that having DuPont fund an activity of the Office of Private Sector Initiatives would constitute an illegal supplementation of appropriations. Just as Coyne should not have solicited Pan Am to provide free air travel for him and his staff in the last Coyne matter we considered, so too here he should not have solicited DuPont to fund this project. Again Coyne seems to have been led by his office's mission of promoting charitable activity to consider his official duties as charitable in nature, and proper subjects of private sector contributions.

Neither of Coyne's suggested approaches avoids the supplementation problem. Having the company doing the production work on the video tape bill DuPont would be a direct supplementation. Funneling the money through a 501(c)(3) organization, newly created or established, is no less problematic, since supplementation of appropriations from such organizations is just as contrary to law as supplementation from corporations or private individuals.

If Coyne is desirous of producing the video tape, he can either pay for the production costs out of the funds appropriated for his office, or turn over what he has produced

thus far to a private sector charitable entity for completion. In the latter case the completed tape would be the property of the private sector entity, not the government, although Coyne's office could make others aware of the tape, encourage its use, etc. -- precisely the more modest function his office was envisioned as having when it was formed. You may recall that in December of 1982 we approved a similar arrangement involving the transfer of a computer databank compiled by the President's Task Force on Private Sector Initiatives to a 501(c)(3) organization. We advised that the transfer could take place, with the 501(c)(3) organization agreeing to maintain, develop, expand, and distribute the databank, so long as the Government retained a set of whatever materials were turned over.

The draft memorandum for Coyne advises him that having a private sector entity -- charitable or otherwise -- fund his office's production of the video tape is not permissible. It also suggests the alternative of having a private charitable organization take over the project, noting that the product would then be that of the private organization.

Attachment

THE WHITE HOUSE

WASHINGTON

April 16, 1984

MEMORANDUM FOR JAMES K. COYNE
SPECIAL ASSISTANT TO THE PRESIDENT
FOR PRIVATE SECTOR INTIATIVES

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Video Tape on Voluntarism

You have asked for our views on a proposal to complete production of a video tape depicting 13 successful examples of community involvement in social and economic issues. You noted that your office has developed a draft tape but that further work is necessary to finish the project. You solicited private sector funding to cover estimated production and distribution costs of $20,000, and secured a funding commitment from DuPont for the entire amount. Now you have asked how the $20,000 may be accepted, suggesting either that the production company bill DuPont directly or that DuPont give the money to a 501(c)(3) organization and your office draw funds from that organization.

Either suggested approach would constitute an illegal supplementation of appropriations. As an office within the White House the Office of Private Sector Initiatives is, like most entities within the Federal Government, limited to using appropriated funds for official activities. Neither DuPont nor a 501(c)(3) charitable organization nor any other private sector entity can fund the official activities of your office. As I have had occasion to advise you in the past, the unique mission of your office to encourage private sector support of charitable activities does not mean that your official duties are themselves charitable in nature or a proper subject of private sector financial support, whether from a corporation or charitable organization.

The fact that you cannot use private sector funds to pay for your office's production of the tape does not, however, mean that the tape cannot be produced and distributed. Appropriated funds may be used to cover the costs, or the work you have done thus far may be provided to a 501(c)(3) organization for completion by that organization. The finished product would then be the product of that organization, not the government. Your office could, however, alert others to the existence of the tape and encourage its use, in keeping with the function of your

office to encourage private sector initiatives. If this latter course is followed, you should be careful to retain a set of whatever is turned over, to avoid any difficulties with the law governing alienation or disposal of records. I would note that a similar approach was taken when the President's Task Force on Private Sector Initiatives turned its computer databank over to a 501(c)(3) organization, for maintenance and further development. If you have any questions on implementing such a course of action, please do not hesitate to contact this office.

FFF:JGR:aea 4/16/84
cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

April 17, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS

SUBJECT: Draft Presidential Remarks:
Hispanic Coalition Leadership Luncheon

Richard Darman has asked that comments on the above-referenced remarks be sent directly to Ben Elliott as soon as possible. The remarks pay tribute to the contributions of Americans of Hispanic descent, review the progress of the economic recovery, and discuss the need for educational reform. The President notes the need for immigration legislation, and affirms that any legislation passed by Congress will be applied in a manner that does not discriminate against Hispanic Americans. The remarks conclude with a discussion of Central American policy.

I have reviewed the remarks and have no objections. The most sensitive passage, of course, concerns the immigration bill. The President's commitment to apply the bill in a non-discriminatory fashion addresses the central objection of Hispanics to the bill without appearing to give credence to Speaker O'Neill's fear that the President will veto the bill for political purposes.

Attachment

THE WHITE HOUSE

WASHINGTON

April 17, 1984

MEMORANDUM FOR BEN ELLIOTT
DEPUTY ASSISTANT TO THE PRESIDENT
AND DIRECTOR OF SPEECHWRITING

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Draft Presidential Remarks:
Hispanic Coalition Leadership Luncheon

Counsel's Office has reviewed the above-referenced draft Presidential remarks and has no objection to them from a legal perspective.

cc: Richard G. Darman

THE WHITE HOUSE

WASHINGTON

April 17, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS JGR

SUBJECT: Draft Presidential Remarks:
Great Hall of the People/Beijing, China

Richard Darman has asked that comments on the above-referenced remarks be sent directly to Ben Elliott by noon today. The lengthy remarks begin with a discussion of the mutual interest of China and the United States in resisting Soviet expansionism, and then move to an extended discourse on American values. The President stresses the importance of economic freedom, and notes the successes China itself has had in experimenting with the entreprenuerial spirit. He then discusses how America stifled this spirit in the 1970's, and how we have enjoyed an economic renaissance after returning to sounder economic policies. The remarks conclude by reviewing specific bilateral initiatives: the industrial and technological accord, expanding joint economic ventures, the new tax agreement, and the new plan for cooperation in space.

I have no objection to the President extolling the virtues of capitalism to the Chinese, although the discussion at the bottom of page 9 and the top of page 10 about the shift from the policies of the 1970's to Reaganomics strikes me as a bit partisan for a foreign address. In particular, the "[w]hen we took office in January 1981" language should be deleted. I have no other objections.

Attachment

THE WHITE HOUSE

WASHINGTON

April 17, 1984

MEMORANDUM FOR BEN ELLIOTT
DEPUTY ASSISTANT TO THE PRESIDENT
AND DIRECTOR OF SPEECHWRITING

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Draft Presidential Remarks:
Great Hall of the People/Beijing, China

Counsel's Office has reviewed the above-referenced draft remarks. The last paragraph on page 9 and the first paragraph on page 10 strike us as too partisan for a foreign address. In particular, the opening clause on page 10 -- "[w]hen we took office in January 1981" -- should be deleted.

cc: Richard G. Darman

THE WHITE HOUSE

WASHINGTON

April 17, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS JGR

SUBJECT: Enrolled Bill S. 1186 -- Restoration of Coastal Trading Privileges for Two Vessels

Richard Darman has asked for comments by close of business April 18 on the above-referenced enrolled bill. This private relief bill would waive certain restrictions of the Jones Act for two vessels, Dad's Pad and Zorba. The Jones Act provides in pertinent part that coastwise trade can only be conducted by ships built in the United States and always owned by U.S. citizens. 46 U.S.C. § 883. Dad's Pad and Zorba were both built in the United States and are now owned by U.S. citizens, but both fell into the hands of aliens at some point in the past and accordingly lost coastwise trading rights. This bill directs that Dad's Pad and Zorba be granted such rights despite 46 U.S.C. § 883, if they comply with all other legal requirements.

The bill passed both Houses by voice vote; OMB recommends approval and Transportation has no objection. The bill erroneously cites 46 U.S.C. § 883 as 46 App. U.S.C. 883, but I do not see this as a problem since the provision is also correctly cited as section 27 of the Merchant Marine Act of 1920. Also, there is no 46 App. U.S.C. 883, so the intended reference will be clear. I have reviewed the memorandum for the President prepared by OMB Assistant Director for Legislative Reference James M. Frey, and the bill itself, and have no objections.

Attachment

THE WHITE HOUSE

WASHINGTON

April 17, 1984

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Enrolled Bill S. 1186 -- Restoration of Coastal Trading Privileges for Two Vessels

Counsel's Office has reviewed the above-referenced enrolled bill, and finds no objection to it from a legal perspective.

FFF:JGR:aea 4/17/84
cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

April 17, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS

SUBJECT: Enrolled Bill H.R. 4169 -- Omnibus Budget Reconciliation Act of 1983

Richard Darman has asked for comments on the above-referenced enrolled bill by close of business today. This bill has one major desirable provision and several undesirable ones. The desirable provision, sought by the Administration, delays the May 1984 cost-of-living adjustment (COLA) for Federal civilian and military retirees to December, and makes December the effective date for future COLAs. The undesirable aspects of the bill include provisions increasing the 3.5 percent pay raise for Federal employees to 4 percent, retroactive to January 1, 1984, lowering Small Business Administration (SBA) disaster loan rates and making farm enterprises eligible for them, and reauthorizing the SBA non-physical disaster loan program, for businesses adversely affected by such "disasters" as the Payment-in-Kind (PIK) program or the Mexican peso devaluation. The bill also requires the President to convene a domestic economic summit conference on the deficit with Congressional leaders, and requires that the summit conference report, within 45 days, a comprehensive plan to reduce the deficits.

SBA recommends a veto, arguing that the expansion in SBA loan programs will result in a dramatic increase in demand for SBA loans, and that Congress is likely to appropriate funds to cover the demand. Agriculture and Treasury share SBA's concerns but do not go so far as to recommend disapproval. OPM opposes the new pay raises but recommends approval to obtain the COLA savings. OMB, Defense, and CIA also recommend approval; State and Justice have no objections.

OMB has submitted a draft signing statement, noting that the COLA shift is a key part of the deficit reduction downpayment. The statement objects to the pay raise as unnecessary, and argues that the provision requiring a domestic economic summit -- drafted last year -- is "obsolete" and that such a summit should be regarded as already having taken place. Finally, the statement objects to the SBA provisions as unacceptably costly, urges SBA to control costs through regulations, and notes that Congressional action may be necessary to modify these provisions.

In this bill Congress is forcing the Administration to swallow quite a bit to obtain the COLA deficit reductions. The question is whether the savings from the COLA shift outweigh the costs of the additional pay raise and the SBA expansion, and I have no reason to second-guess OMB's conclusion that, on balance, the bill saves money. Congressional leaders may object to the President's view that the section requiring a domestic economic summit is moot, although the provision is unlikely to create legal problems. No one other than the Congressional leaders would have standing to insist that such a summit be held, and even if the leadership does so it would be a simple matter to comply with the letter of the statute. The summit conferees will not, of course, be able to agree on the required report within 45 days, but blame for failure to achieve this objective can hardly be placed on the President alone. In sum, I have no legal objections, and see no reason for our office to enter the policy debate.

Attachment

THE WHITE HOUSE

WASHINGTON

April 17, 1984

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 4169 -- Omnibus Budget Reconciliation Act of 1983

Counsel's Office has reviewed the above-referenced enrolled bill, and finds no objection to it from a legal perspective.

FFF:JGR:aea 4/17/84
cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

April 17, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS JGR

SUBJECT: Appointments of David Korn, Louise C. Strong, Gertrude Elion, Helene Brown, and Reappointment of Roswell K. Boutwell as Members of the National Cancer Advisory Board

I have reviewed the Personal Data Statements submitted by the above-referenced prospective appointees to the National Cancer Advisory Board. The functions of the Board include reviewing the programs of the National Cancer Institute, collecting and disseminating information on cancer studies, and reviewing applications for grants for cancer research projects. 42 U.S.C. § 286b(b). The President is authorized to appoint 18 members to the Board, no more than 12 of whom may be scientists or physicians, no more than eight of whom may be representatives of the general public, and not less than five of whom shall be knowledgeable in environmental carcinogenesis. The scientists and physicians must be "among the leading scientific or medical authorities outstanding in the study, diagnosis, or treatment of cancer or in fields related thereto," and at least two of the physicians must be physicians primarily involved in treating cancer patients. Each Board member must be "especially qualified" to appraise the work of the National Cancer Institute. 42 U.S.C. § 286b(a)(1). Reappointments are specifically authorized by 42 U.S.C. § 286b(a)(2)(B).

In order to verify compliance with the arcane numerical requirements outlined above, I reviewed the PDS's of the six members appointed on June 12, 1982, in addition to those of the above-referenced prospective appointees, and obtained information concerning the six members appointed on May 14, 1980, from Katherine Reardon of HHS. Reardon handles advisory committees for the Secretary. Based on this review and information, it appears that we are presented with a legal "Catch-22" concerning compliance with the requirements of 42 U.S.C. § 286b(a)(1). Of the 12 members whose terms have not expired, there are eight scientists or physicians but no carcinogenesists. We must, therefore, appoint five carcinogenesists this time. To comply with the requirement that no more than 12 of the members be scientists or physicians, however, we can appoint no more than four scientists

or physicians. Since there is no such thing as a carcinogenesist who is not a scientist, we are in a quandary. If we satisfy the carcinogenesis requirement, we will violate the scientist or physician cap. If we comply with the cap, we will violate the carcinogenesis requirement. This difficulty is the result of using up the scientist or physician slots in prior appointments on non-carcinogenesists.

At Reardon's suggestion I contacted Dr. Vincent DeVita, the Director of the National Cancer Institute, who had reviewed the prospective appointees. DeVita recognized the apparent problem, but argued that the scientist or physician cap was not violated because Tim Lee Carter, M.D., appointed in 1982, should not be considered a physician but rather a lay member. Carter served in Congress from 1964-1980, and while he is a licensed physician he did not practice for 16 years and even now only sees an occasional patient. DeVita argued that there was precedent for such a functional rather than literal reading of the "scientist or physician" cap. According to DeVita, a physicist was carried on the Board in the past as a non-scientist, despite his doctorate, since his scientific expertise was entirely unrelated to the activities of the Board.

I am not particularly comfortable arguing that Tim Lee Carter, M.D., should not be considered a "physician," as that term is used in the statute. The argument is a colorable way out of a dilemma, however, and is no more troublesome than simply violating the carcinogenesis requirement by not appointing five carcinogenesists or the physician cap by doing so. Accordingly, I recommend that we insist on the appointment of five carcinogenesists, and argue that Carter is not a "scientist or physician" as those terms are used in the statute if anyone asserts we have violated the scientist or physician cap.

DeVita advises that Strong, Elion, Korn, and Boutwell satisfy the carcinogenesis requirement; Brown -- a general public representative -- does not. [redacted] We should advise Presidential Personnel that whomever is appointed to this open seat must satisfy the carcinogenesis requirement. That will result in the required five carcinogenesists serving on the Board.

A memorandum to Herrington is attached for your review and signature. The memorandum clears the above-referenced five individuals, [redacted]

[redacted] b6 As noted, perhaps sending this memorandum will help force the issue.

Attachment

THE WHITE HOUSE

WASHINGTON

April 17, 1984

MEMORANDUM FOR JOHN S. HERRINGTON
ASSISTANT TO THE PRESIDENT
FOR PRESIDENTIAL PERSONNEL

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Appointments of David Korn, Louise C. Strong, Gertrude Elion, Helene Brown, and Reappointment of Roswell K. Boutwell as Members of the National Cancer Advisory Board

Counsel's Office has reviewed the Personal Data Statements submitted by the above-referenced prospective appointees to the National Cancer Advisory Board. Of the 18 members appointed by the President to the Board, no more than 12 may be scientists or physicians, no more than eight may be representatives of the general public, not less than five must be knowledgeable in environmental carcinogenesis, and at least two must be physicians primarily involved in treating cancer patients. 42 U.S.C. § 286b(a)(1). The background and qualifications of this latest group of prospective appointees cannot be assessed in a vacuum but must be considered together with the background and qualifications of the sitting Board members, to ensure that the composition of the total Board satisfies the statutory requirements.

Our office is of course not qualified to determine who is or is not "knowledgeable in environmental carcinogenesis," but we have been advised by Dr. Vincent DeVita, Director of the National Cancer Institute, that none of the members appointed in 1980 and 1982 satisfy this requirement. In filling the six vacancies created by expiration of terms on March 9, 1984, therefore, five of our appointees must be knowledgeable in environmental carcinogenesis. DeVita advises that Strong, Elion, Korn, and Boutwell meet this requirement; Brown does not. Whomever is chosen to replace Irving J. Selikoff and fill the sixth vacancy thus must meet the carcinogenesis requirement.

Appointing five carcinogenesists, however, presents a problem with the requirement that no more than 12 Board members be scientists or physicians. Of the sitting Board members whose terms do not expire until 1986 or 1988, eight are scientists or physicians. Appointing five carcinogenesists

would result in exceeding the cap of 12 scientists or physicians. Not appointing five carcinogenesists, however, would result in violating the carcinogenesis requirement. This highly unsatisfactory quandary is the result of using up scientist and physician slots in prior appointments on scientists or physicians who were not carcinogenesists.

Dr. DeVita advised us that one of the sitting members, Tim Lee Carter, M.D., is considered a lay member and not a "scientist or physician." Carter served in Congress for 16 years and has a largely inactive medical practice. While we are not entirely content with finessing the problem by viewing Dr. Carter as not being a physician, and note that the composition of the Board may be open to challenge, adopting this argument is no more troubling than failing to appoint five carcinogenesists, as required by statute.

Not surprisingly, the prospective appointees have associations of different types with various institutions or individuals that could at some point apply for grants reviewable by the Board. Obviously, those associations will have to be reviewed on a case-by-case basis should the institutions or individuals apply for grants or otherwise come under the jurisdiction of the Board. If necessary, affected members will have to recuse themselves from the review and certification process with respect to those particular applications.

Assuming that your office confirms what we have been told -- that Strong, Elion, Korn, and Boutwell satisfy the carcinogenesis requirement -- and assuming that whomever is appointed to replace Irving Selikoff also satisfies the carcinogenesis requirement, we have no objection to proceeding with the appointments of Strong, Elion, Korn, Brown and the reappointment of Boutwell.

FFF:JGR:aea 4/17/84
cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

April 18, 1984

MEMORANDUM FOR DIANNA G. HOLLAND

FROM: JOHN G. ROBERTS JGR

SUBJECT: Reappointment of Sylvester E. Williams, IV to the National Advisory Committee for Juvenile Justice and Delinquency Prevention

Under 42 U.S.C. § 5617 the President is authorized to appoint fifteen persons to the Advisory Committee, at least five of whom shall be less than 24 years old at the time of their appointment. At least two of these five "shall have been or shall be (at the time of appointment) under the jurisdiction of the juvenile justice system." 42 U.S.C. § 5617(a)(3). No member of the Advisory Committee may be a full-time officer or employee of the Federal Government. Id. § 5617(a)(4).

On February 22, 1984, I submitted a memorandum concerning the reappointment of four of the five Reagan appointees whose terms expired on January 17, 1984. I noted that the fifth prospective reappointee -- Mr. Williams -- had not yet submitted a new PDS; Mr. Williams has now done so. I have reviewed Williams's PDS and have no objection to his reappointment. As I noted in my earlier memorandum, reappointments are authorized by 42 U.S.C. § 5617(b)(2).

Williams is still under 24 years of age, and accordingly may be counted toward fulfilling the requirement that five of the President's 15 appointees be less than 24 at the time of their appointment. (With the four previous reappointments, plus Williams, the requirement is satisfied.) There is no indication that Williams has been under the jurisdiction of the juvenile justice system, but the previous reappointments of Koppenhoefer and Rouse already satisfied that requirement.

Attachment